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# PLEASANTRIES

OF

# ENGLISH COURTS AND LAWYERS

BY

JOHN CORDY JEAFFRESON

OF THE INNER TEMPLE

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# I.

# THE LORD CHANCELLORS.

## CHAPTER I.

WELL planned and well written, the story of the Great Seal would be a rare story.

It calls up the dead of eight silent centuries, placing before the mind much of that which is most beautiful and noble, and not a little of that which is most to be deplored in the growth of England's greatness. The poet's song and the soldier's fame give music and brightness to the atmosphere that covers and surrounds the mystic emblem of sovereign will. For seven-and-twenty generations fair women and brave men have submitted meekly to its influence and bowed before it reverentially. More than a mere symbol of the ruler's power, it has been honored as the power itself by the flatteries of pliant courtiers, the prayers of wretched supplicants, the hopes of ambition, and the fears of cowardice.

For twice four hundred years it has witnessed the most stirring scenes, held parley with the most famous personages, and been an actor in the grandest episodes of history. The right to guard it from danger has been placed amongst the chief honors of a highly-civilized people; and to win that honor, and wear it for a few brief days, accomplished, resolute, and brilliant men have in each generation striven with fierce rivalry and

heroic steadfastness. Through days of toil and nights of study; through long years of exertion, disappointment, and despair; against the difficulties of debt, and mental distress, and feeble health; with an ascetic abstinence from pleasure, and with a terrible concentration of all their powers upon the one desired object, they have striven for that prize, and striven in vain. Bootless their perseverence and self-denial, their learning and integrity, their sacrifices and unconquerable will! Vanquished by the intensity of their own exertions, or worsted by some of those many circumstances and adverse influences which at times stay the speed of the swift and defeat the strong, they failed to achieve their purpose. They "dropped under," and the mighty tide of life which rolled over them is their nameless grave.

Many are the times that Fortune has wrenched the Seal from a firm grasp and dropped it into a feeble hand; many a time has she led a knave to the Marble Chair, and cast a smile of derision on men too honest to woo her with falsehood; anon she has turned her back on the entire crowd of eager aspirants, and with beautiful malice in her eyes has thrown the prize into the lap of a simpleton who had never expected to touch it, had never even asked for it.

Scarcely less startling than the most striking phenomena of science are the diverse effects which have been wrought in Keepers of the Great Seal by the mere custody of that royal property, To some its acquisition has been admission to new life, to others the first triumph of office has been followed by speedy death.

It might be told how men, still in the middle term of life—still in the sunshine of younger manhood—have snatched the coveted prize ere care had plowed furrows in their faces, or time had placed frost upon their heads. It might be told how these singularly lucky and

strangely unfortunate men have borne away the crimson purse before envious eyes, and from that time forth have never known a night of peaceful slumber—an hour of perfect repose. The story might reveal how one, more successful and wretched than all his fellows, could not endure the burden of that bauble: how its weight, so trifling in the scales, was immeasurable in his breast and upon his conscience; how he fled from the eyes of men, and hiding his face, sought the mercy of Death—and found it.

But more marvelous than aught and all that it has done are the vicissitudes which the Great Seal has experienced, the perils which it has encountered, *the deaths which it has survived!* No charmed life of fairy lore surpasses in wonders and incredible incidents the life of the Great Seal. It has seen much service in foreign lands; when the Crusaders stirred all Europe it started in pomp and glittering magnificence upon the road for the Holy Land; it has smiled at the feasts of kings, and starved with hunger in the garrets of continental cities; in vain have Earth, Fire, Air and Water banded together for its destruction; it has sunk to the bottom of the sea, and has risen again on the tops of the waves; men compassed its death by hurling it into the Thames, but it asked help of a waterman, through whose timely aid it was restored to the King's House; thieves have stolen it, melted it down, and sold it for old metal; it has been buried beneath the ground, but friendly hands exhumed it and reinstated in honor; over and over again ruffians, armed with murderous instruments, have broken it into minute pieces—but still the Great Seal is with us, entire, sound, beauteous, flawless as ever.

## CHAPTER II.

IT was the humor of the last chapter to speak of the Great Seal, as though there had been no more than one Great Seal made since the kings of England first began to place their royal wishes on sealed records. That each sovereign has used his own peculiar seal, and that the opening of each reign had witnessed an actual or formal destruction of the last monarch's broad device, are facts familiar to most persons; but it is less generally known that English kings have changed their seals, and even kept two or more great seals in use at the same time. There are also those who have read certain passages of English history with conscientious care, but have omitted to give due thought to the grave embarrassments and laughable difficulties which have arisen from the existence of rival seals, or the customary use of a Great Seal the genuineness and legal validity of which have been called in question.

As becomes men who are about to consider a great historic subject, let the readers of this volume transport themselves to the tranquil ages of the past, and glance at seals designed and graven in times when art was low and learning was infrequent. There is no need to analyze the *terra sigillata* of the Egyptians, or to speculate as to the proportions of clay and common wax that entered into the compositions of the cement used by Jewish doctors in olden time. Whether Roman scholars preferred seals of paste to seals of carefully prepared fuller's-earth; by what slow gradations the cumbrous lump of dough was refined into the delicate wafer; whether yellow or white wax has higher claims to respect on the score of antiquity; and how far the viscous property of gum was turned to account by writers of secret letters betwixt the

days of Jeremiah and the labors of St. John, are questions for discussion in another place. Antiquaries earnest in the study of diplomatics may vex their brains in the study of these obscure points; but the not laborious students of these light volumes shall go no further back than a bright sunny morning in the year of our Lord one thousand and forty-two, or thereabouts, when Edward the Confessor sat in solemn state "for his portrait." On rare occasions certain prior Anglo-Saxon kings had executed deeds by sealing them with their seals; but learned William Dugdale, Knight, rightly says in his "Origines Juridiciales:" "But admitting these few examples, most certain it is, that as Sealing of Charters in the time of our Saxon kings was not common, so the office of chancellor was not originally denominated from the keeping of the king's seal; and that for a constant succession of seals we are not to look higher than King Edward the Confessor."

The Confessor was notable for length of limb, and he was induced to put himself on a low seat, which, had he occupied a throne of suitable height, might have served him as a footstool. Moreover, he sat with his face full towards the artist. Consequently his knees, sticking up in close proximity to his chin, were the most prominent points of his figure; and the too faithful portrait makes him resemble a trussed fowl rather than a creature fashioned after the likeness of divinity. Had the evil ended with the production of one unsightly caricature, no great harm would have been done, but unfortunately the Confessor's picture was accepted as a guide by succeeding artists, who in their likenesses of later sovereigns felt themselves bound to adhere to the ungraceful precedent. Conservative sentiment converting the blunder into a rule, the kings and queens of England throughout many centuries were trussed in like fashion, and until the

middle of the eighteenth century were made to grin over their angular knees, like so many paupers fast set with rheumatism. In the equestrian image of William the Conqueror an effort was made in a happier direction; but the Norman's war-steed having closer resemblance to a greyhound than a charger, and his legs being drawn as long and thin as spears, the effect is not altogether satisfactory. For many a day no attempt was made to straighten the legs of the sitting monarchs. The awkwardness is displeasing in the men, but in the women it is offensive. The aspect of bloody Mary, for instance, as she sits by the side of Philip, her consort, confirms every satire on her want of feminine grace. Queen Elizabeth is preserved from ridicule by the expanse of her stiff petticoat, that leaves it open to discussion whether she is sitting or standing; but blushing chivalry looks away from poor Queen Anne, on whose fat legs the drapery lies in huge, unsightly rucks. A better state of things commenced during the Hanoverian dynasty. George I., indeed, fronts his liege subjects, clumsily sitting, knees foremost, like a butcher on his block; but George III., anxious to win the respect of a populace dangerously inclined to laugh at Divine Right, offered a not ungainly side view to his limner, and George IV. had too much good taste not to follow his father's example. The sailor-king, as he is presented on his broad seal, enthroned and robed, is most artistically placed, and is a perfect picture of a royal gentleman; and by the gentle beauty and exquisite grace depicted on the present Great Seal — a triumph of art—future ages will be reminded of that fair Christian lady, for whose long life and safety all good Englishmen of these passing days offer fervent prayers.

The exact year in which the Confessor's seal was made is unknown. There is no proof that it existed during the official life of Edward's first chancellor, Leofric; but

in A. D. 1045 his second chancellor, Wulwius, affixed it to a royal charter quoted by Dugdale; and the seal was used in like manner by his third chancellor Reimbaldus. Thus, at the outset of its history, the Seal was entrusted to the care of that officer, whose duties (however humble at their beginning) caused him to maintain a close and constant intercourse with the king, and who in time became the Keeper of the Royal Conscience, and the chief lawyer in the realm. By the populace, chancellors and the Keepers of the Seal were soon spoken of as holding one and the same office, and for many generations the titles were deemed to have one meaning; albeit, the offices were distinct, and occasions frequently arose when they were filled by different persons. Even in the time of the Confessor, one man is found discharging the office of chancellor, whilst another is employed to keep and use the seal. The first Lord Keeper on record (acting merely as a keeper) is Swardus, who, during the chancellorship of Reimbaldus, was employed to seal the royal charters: but in that instance, as in many subsequent cases, the Keeper of the Seal was no more than a deputy acting for the chancellor, and therefore, by a well-known maxim of law, the official acts of Swardus may be regarded as the acts of Reimbaldus.

The Confessor's example in this matter was followed by his successors, whenever they found it convenient to separate the two offices. While chancellors attended their kings on foreign travel, or were compelled to leave England on missions to continental states, keepers were appointed to use the seals; and, on the other hand, the monarch, atteded by his Keeper bearing the Seals, would cross the seas, whilst his chancellor remained at home discharging his ordinary functions. In the latter case it was usual for the chancellor to hold a duplicate Great Seal, so that the king's business might be carried on,

notwithstanding the absence of the Keeper and the veritable Great Seal from the country. Thus, Keeper or Vice Chancellor Malchein attended Richard I. on the way to the Holy Land, whilst Chancellor Longchamp minded the king's affairs at home. Hence arose the practice of appointing a Lord Keeper to do the Chancellor's work, not merely during that minister's temporary absence from the land, but at times when the chancellor's office was vacant, and when there was no intention in the king's mind to fill it immediately.

In time, Lord Keepers and Lord Chancellors came to hold, for all practical purposes, one and the same office. The occasions were rare when the two places were filled at the same time by different persons; and when those occasions ceased to occur the distinction grew to be a mere affair of title—the Lord Chancellor being Lord Keeper with superior rank, the Lord Keeper being a Lord Chancellor with the less noble designation. But it was not till the reign of Elizabeth that an act of parliament put the fact beyond question. When Sir Nicholas Bacon was made Queen Elizabeth's Lord Keeper, an Act (drawn and made law by men not familiar with old usage) was passed declaring that the Lord Keeper was a Lord Chancellor in every respect save that of title. This enactment took from the crown the privilege of having a chancellor and a keeper at the same time.

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## CHAPTER III.

IN the first year of his reign, the infant king Henry III. affixed to letters-patent the seal of his protector, William, Earl of Pembroke; and he expressly states that the Protector's seal was employed because he had

not as yet a seal of his own. It was not till the third year of his reign, that the youthful monarch had a seal; and even when it had been engraved he was not permitted to use it until he had attained full age, a special act providing that no "charter or letters-patent of confirmation, alienation, sale, or grant of anything under perpetuity, should be sealed with the King's Great Seal until his full age; and that if such were sealed with that Seal they should be void." This is a noteworthy instance of a king, sound in mind and body, permitted to sit upon the throne, but restrained from exercising his royal rights.

In the feudal ages any needy clerk who had turned his attention to caligraphy, could have perpetrated forgeries in perfect confidence that they would endure the scrutiny of the most accurate and skillful of living readers. But the necessity for sealing placed almost insuperable obstacles in the way of those who were best qualified and most desirous to triumph over right by fictitious deeds. It was no easy matter to procure seals of any kind; it was very difficult to obtain for dishonest ends the temporary possession of well-known seals. Private persons seldom had such cunning trinkets. Richard I. is supposed to have introduced seals ornamented with armorial bearings; but it was long before they became general amongst the nobility, and the present century had begun ere they were universally worn by all persons laying claim to gentility. Great barons, ecclesiastical dignitaries, secular and religious corporations, had distinctive seals at an early date; but they were confided to the care of trusty keepers, and were guarded with jealousy. When an official seal was used, its keeper brought it with reverential care from its customary place of concealment, and it was not applied to any document without satisfactory cause shown why its sanction was required. An obscure tamperer with parchments could not

hope to lay his hands on one of these important seals. If he procured an impression of a respected seal, he could not obtain a fac-simile of the original. Seal-engraving was an art in which there were few adepts; and the artists were for the most part men to whom no rogue would dare propose the hazardous task of counterfeiting an official device.

In estimating the security given by seals, the reader must bear in mind that the forger of deeds in olden time had not overcome all difficulties, when he had surreptitiously obtained a seal. The mere act of sealing was by no means the simple matter that it is now-a-days. To place the seal on fit labels rightly placed; and in all respects to make the fictitious deed an accurate imitation of the intended deeds to which the particular seal of a particular great man was applied, were no trifling feats of dexterity, ere scriveners had congregated into fraternities, and law-stationers had been called into existence. To get a supply of suitable wax was an undertaking by no means easy in accomplishment. Sealing-wax was not to be bought by the pound or stick in every street of feudal London. *Cire d'Espagne*—sealing-wax akin to the bright vermilion compound now in use—was not invented till the middle of the sixteenth century. William Hone assures his readers that "the earliest letter known to have been sealed with it was written from London, August 3, 1554, to Heingrave Philip Francis *von* Daun, by his agent in England, Gerrand Herman," and long after that date the manufacture of sealing-wax was a secret known to comparatively few persons. In feudal England there were divers adhesive compounds used for sealing. Every keeper of an official seal had his own recipe for wax. Sometimes the wax was white; sometimes it was yellow; occasionally it was tinged with vegetable dyes; most frequently it was a mess bearing

much resemblance to the dirt-pies of little children. But its combination was a mystery to the vulgar; and no man could safely counterfeit a seal-impression who had not at command a stock of a particular sealing-earth or paste, or wax. Eyes powerless to detect the falsity of a forger's hand-writing could see at a glance whether his wax was of the right color.

Moreover, the practice of attesting private deeds by public or well-known seals gave to transactions a publicity which was the most valuable sort of attestation. A simple knight could not obtain the impression of his feudal chieftain's seal without a formal request, and a full statement of the business in hand. The wealthy burgher, who obtained permission to affix a municipal seal to a private parchment, proclaimed the transaction which occasioned the request. The thriving freeholder who was allowed the use of his lord's graven device, had first sought for the privilege openly. "Quia sigillum meum plurimis est incognitum" were the words introduced into the clause of attestation; and the words show that publicity was his object. And to attain that object the seal was pressed in open court, in the presence of many witnesses.

Indeed, the process of sealing was so much more respected than the act of signing, that in some countries the practice of sealing was alone employed; and in England the seal was long regarded as that which imparted validity to a deed, whilst signature was held to be a needless ceremony. The Saxons, who seldom used seals, subscribed their names to their deeds; or if they were unable to write they signed with the sign of the cross, after the manner of King Cædwalla, one of whose charters ends with the following candid avowal of his inability to sign his name:—"Propriâ manu pro ignorantiâ literarum signum sanctæ crucis expressi et subscripsi." In con-

trast to the Saxon immigrants, the Normans sealed without signing. Edward the Confessor adopted the Norman practice, and attested his charter to Westminster Abbey by seal alone. Of course the conquering barons did not depart in this matter from the usage of their fathers; under their influence the practice of sealing became universal in England, and the necessity for signature ceased to exist. "This neglect of signing," says Blackstone, "and resting only upon the authority of seals, remained very long among us; for it was held in all our books that sealing alone was sufficient to authenticate a deed; and so the common form of attesting deeds '*sealed* and delivered' continues to this day; notwithstanding the Statute 29 Car. II. c. 3, revives the Saxon custom, and expressly directs the signing, in all grants of lands, and many other species of deeds; in which, therefore, signing seems to be now as necessary as sealing, though it has sometimes been held that the one includes the other. And the more modern opinion perhaps is that the Statute of Frauds is applicable only to mere agreements, and that signing is not essential to the validity of a deed."

Notwithstanding the difficulties attending their fabrication, spurious seals were manufactured by the knaves of feudal England. The Statute of Treasons, 25 Edward III., declared it high treason for a man to "counterfeit the king's Great or Privy Seal;" but rogues bent on gaining the sanction of the Broad Seal for a wrongful purpose knew how to achieve their purpose without subjecting themselves to the penalties of high treason. They would carefully remove the impression of the king's seal from a genuine patent, and cleverly affix the stamped wax to fictitious letters. By this process a rascally priest concocted a spurious dispensation for non-residence; and he was held not to have counterfeited the Great Seal, but to have *abused* it.

But the priest's fraud sinks into insignificance when it is compared with the adroit rascality of a clerk in Chancery who lived in Sir Edward Coke's time. First, the dextrous knave placed two pieces of parchment, one above the other, and glued them together with such nicety and exactness that even on close observation the two skins seemed but one skin. That done, he drew out a patent on the upper piece, and in the usual manner procured the impression of the Great Seal, the label of the seal passing through both skins. Having thus obtained the seal, he dissolved the glue which held the skins in union, removed the parchment on which the genuine patent was written, and then inscribed upon the blank skin a patent in all respects accordant with his wishes. This trick was such a master-piece of fraudulent practice that its exposure must be mentioned in terms of regret. On the discovery of the fraud it was decided that the clerk in Chancery had not counterfeited the Great Seal, and had been merely guilty of a great misprision. But though he had only committed a comparatively slight offense, such was the cruelty and such the injustice of public opinion that the artist was exposed to much obloquy and scornful satire; and, if Sir Edward Coke's warmth may be taken as a truthful indication of prevailing sentiment, the unfortunate gentleman never altogether recovered that good esteem which he had forfeited by a delicate and ingenious, though indiscreet, attempt to control circumstances.

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## CHAPTER IV.

THERE being no constitutional provision for securing an unbroken occupation of the keeper's place,

similar to the precautions taken by the Constitution of the United States of America against the chances of a vacant Presidential throne, there has always been a greater or less interval between the close of each lord keeper's official life and the commencement of his successor's tenure of place; and during these intervals the seal has always been for a greater or less length of time in the actual or nominal possession of the monarch. During these periods of personal tenure of the Great Seal, kings have often amused themselves with applying it to letters with their own hands. For instance, Richard II. himself sealed the commission by which he appointed certain trusty and noble servants to proceed to Germany, and act as escort and convoy to the Emperor's sister, Lady Ann, about to become His Britannic Majesty's queen-consort. Henry IV., on the dismissal of Thomas Arundel from the chancellorship, with his own hand affixed the seal to charters, letters-patent, and writs. In like manner when Wolsey had placed the seal in the hands of the Dukes of Norfolk and Suffolk, Henry VIII., by sealing certain letters-patent, showed that if there were need for him to do so, he could act as his own lord keeper. At York, Charles I. kept the Great Seal in his own hands, entrusting it to Sir Edward Littleton when there was need for an impression, but requiring the lord keeper to restore it to him as soon as the sealing was finished. Before the Restoration, Charles II. acted for years as his own lord keeper. Notwithstanding the statement inscribed upon his wife's tomb in Kingsthorpe, it is doubtful if Sir Richard Lane was ever lord keeper to the exiled monarch; but if Lane held the office, Charles unquestionably kept his first Great Seal for himself whilst he was in Scotland, and until the Battle of Worcester. Again, between the date of his compulsory departure from Paris and Hyde's installment at Bruges,

the exiled monarch personally held the seals. After the Restoration he acted as his own lord keeper on a memorable occasion. When the not too scrupulous Lord Chancellor Nottingham wanted courage to put the seal to Danby's pardon, Charles II. took the broad device from the timid lawyer, and either with his own royal hand, or by the hand of an obsequious servant, sealed the pardon which he forthwith presented to the Earl of Danby. This unkingly business done, Charles returned the seal to his chancellor, saying, "Take it back, my lord; I know not where to bestow it better."

Many similar cases, where British monarchs have themselves used their own broad seals, could be mentioned, but Nottingham's momentary resignation and immediate return to office may be pointed to as marking the shortest period during which an English king has been his own lord keeper.

At times when the Great Seal has not been in the hands of the crown, it has often occurred that the country has been without a lord keeper, and also without a lord chancellor. In such cases the seal itself has been entrusted to a committee of several persons, and the seal itself has been said to be "in commission." One of the earliest instances of this arrangement occurred in the reign of Edward III., when in the interim between Robert Parnynge's death and Robert de Sadyngton's chancellorship the Great Seal was entrusted to the Master of the Rolls and two other officers. After an interval of a few years, on the sudden death of Chancellor John de Offord, the seal was again in commission —three persons assisting the Master of the Rolls to use it: and since that time the seals have frequently been in commission for longer or shorter periods. In the seventeenth century commissions were very common. The parliamentary soldiers or leaders entertained illogi-

cal but wholesome prejudices against lawyers; and during the Commonwealth the Great Seal of Great Britain was entrusted to various commissions, of which more will be said elsewhere. Following the established custom, and thereby gratifying public opinion, William III. was averse to the thought of appointing a chancellor; and Somers was not raised to the high place on which he shed undying lustre, until the king had found reason to distrust commissions. William's first set of commissioners—Maynard (ætat 87), Keck, and Rawlinson—notwithstanding Maynard's learning, wit, and high repute, caused much dissatisfaction among lawyers and suitors; and the succeeding three, amongst whom Rawlinson again had place, did not fare better.

Indeed, Commissioners of the Great Seal have seldom met with public approbation in these latter times; and although in days when the rule and practice of Chancery were less definite and complicated than they are at present, the division of the Chancellor's honor and responsibility afforded some securities for public welfare, and was attended by comparatively few inconveniences, it may be confidently asserted that no prime minister of the present reign will advise the Queen to place her Great Seal in the keeping of a board of honorable gentlemen for any long period of time. Of all known commissions of the Great Seal, that which was appointed after the tragical death of Charles Yorke became at the same time the most unpopular and ridiculous. It consisted of three puisne judges, whose familiarity with the Courts of Equity was not greater than that of most puisne judges. Sir Sidney Stafford Smythe, Sir Richard Aston, and the Honorable Henry Bathurst were the lawyers thus raised above their fellows, and in mental anguish they paid a high price for an elevation which lasted for about twelve months. At length, the

endurance of the public gave way, and to pacify lawyers and clients, it being found necessary to appoint a Chancery commander-in-chief, honest Henry Bathurst was advanced to the peerage, and authorized to dispense bad law without the trouble of having to consult a pair of equally inefficient assessors. When Sir Fletcher Norton heard of Henry Bathurst's advancement, he exclaimed; "What three could not do is given to the most incompetent of the three." Many are the good stories told of the blundering Henry Bathurst, son of that witty earl who was the friend of Swift, Addison, and Pope; that old Lord Bathurst, who in his eighty-sixth year said to Lawrence Sterne, "Come home and dine with me."

Since the commission which was followed by Henry Bathurst's installment in the Marble Chair, there have been four occasions when the Great Seal has been held by commissioners. Between Thurlow's first and second chancellorships, the Great Seal was committed to the care of Lord Loughborough, Chief Justice of the Common Pleas; Sir William Henry Ashurst, justice of the Common Pleas; and Sir Beaumont Hotham, baron of the Exchequer. In 1792, filling a gap between the second chancellorship of Thurlow and the installment of Lord Loughborough, there was a short-lived commission. On Lord Lyndhurst's resignation in 1835 the seals were put in commission—Sir Charles Christopher Pepys, Vice-Chancellor Shadwell, and Mr. Justice Bosanquet being the commissioners, until Sir Christopher Pepys became Lord Chancellor with the title of Lord Cottenham. Lastly, on Lord Cottenham's retirement, a commission—consisting of Lord Langdale, Vice-Chancellor Shadwell, and Sir Robert Monsey Rolfe—held the seals from June 18, 1850, to July 15, 1850, on which latter day Lord Truro became Chancellor

## CHAPTER V.

ALTHOUGH English monarchs have usually had but one Great Seal at a time, it has from time immemorial been customary to speak of the Lord Chancellor or Lord Keeper as holding "*the seals.*" This usage has often created in uninquiring minds a misapprehension that the Chancellor is invariably the keeper of at least two seals; and it has even led legal writers into mistake. The right explanation of the term is found in the formation of the Great Seal, which is made in two parts, its obverse and reverse being in fact two distinct and separate seals, the impressions of which are taken on wax interposed between them, and in combination are the stamp of the *Clavis Regni.*

But few English sovereigns are known to have had two or more contemporaneous Great Seals; and it is improbable that the monarchs who were thus rich in seals made it a rule to entrust them both or all at the same time to one officer. Kings who had occasion to travel in foreign lands not unfrequently had two different Great Seals, or a Great Seal and a fac simile—one for the use of royalty on his travels, the other for the use of the Chancellor entrusted with the conduct of affairs at home; one being in the custody of the keeper in attendance on his liege lord, the other being left with the chief of the High Court of Chancery. But in cases where the two seals had different designs, common prudence would dictate that they should be kept from the grasp of one man; and it cannot be doubted that in most instances prudence controlled the action of the crown with regard to this matter, as kings are continually found destroying their discarded seals, for the sake of avoiding the confusion and troubles that might ensue

if, without an especial reason, they retained in use, or even in existence, seals of diverse patterns.

Edward III. was remarkable for the number and variety of the Great Seals which he caused to be made. His assumption, renunciation, and resumption of the title of King of France, and certain exigencies of state consequent on his frequent departures from England, brought about his frequent changes in the pattern of his seal. In all he had no less than seven Great Seals, of which the first was destroyed nine months after his accession to the throne, and before the second seal was affixed to any document. The fourth seal (engraved on his formal assumption of the title of King of France) was also destroyed on the day that the fifth was brought into use. The third seal was first used on July 10, 1338, when the king, being about to leave the country, sent an impression of it to all his principal servants of state, intimating that during his absence it would be the Great Seal for domestic use, whilst his other (No. 2) seal would attend him abroad. On the king's return from Tournay, on Nov. 10, 1340, a sixth seal, made in foreign parts, was given to William de Kilderby, and an order was given that during the king's presence in the country it should be used in the place of the destroyed fourth seal; and that the fifth seal should be again used during any future absence of the monarch from the realm. These two last-mentioned seals were employed till 1369, when the seventh seal, the handsomest of all the seven, was engraved in accordance with the terms of the peace of Bretigny.

From remote days in our history the destruction of discarded Great Seals has been accomplished with due ceremony, and until recent times with great completeness. It is matter of record that Edward III.'s first seal was broken "in minutas pecias" on October 5, 1327,

and that the Chancellor gave the fragments to his sealer. This notice is of interest; for as the Chancellor could not give away that which did not belong to him, the gift makes it clear that at that early date the pieces of a destroyed seal were a perquisite of the Chancellor, and his perquisite they have remained to this day.

Like Edward III., Henry VIII. had occasion to adopt a new seal in consequence of an alteration in his royal style. When he had finally broken with Rome, he delivered into the hands of Sir Thomas More's successor a new broad seal, which is minutely described in the Close Roll, the old Great Seal having been previously destroyed.

For a less weighty reason James I. caused his seal to be altered. On July 19, 1603, Elizabeth's seal was broken, and the monarch placed his own seal in the hands of Egerton, who was then first authorized to bear the higher title of Lord Chancellor, and was moreover raised to the peerage with the title of Baron Ellesmere. Two years later James gave a warrant to the Lord Chancellor empowering him to alter the seal, "forasmuch as in our Great Seal lately made for our realm of England, the canopy over the picture of our face is so low embossed that thereby the same seal in that place thereof doth easily bruise and take disgrace."

Few Great Seals have been broken with greater pomp and amidst livelier excitement than the *Clavis Regni* which Lord Keeper Littleton followed at full gallop from London to York, which figured in the High Court of Chancery presided over by Littleton in the Philosophy Schools of Oxford, and which was left in Lord Keeper Lane's hands, when Charles I., under the disguise of a groom, rode away from Oxford, on the announcement that Cromwell and Fairfax were marching on the stronghold of loyalty. In settling the terms of honorable capitulation, Lane did his best to retain possession of the

Broad Seal, but Fairfax insisted that it should be surrendered to him. The point was yielded by the military lawyer, who had no sufficient power to resist the parliamentary soldier. The king's seal became the property of his enemies, and as soon as Parliament received intelligence of their prize, they made an order that their general should forward it to them from Oxford, and that on its arrival it should be defaced and broken. On August 11, 1646, the order for its destruction was carried out in the presence of a crowd of animated witnesses. When Lenthal had produced it at the bar of the House of Peers, a stalwart smith made his appearance, and, amidst deafening acclamations, struck into fragments the bauble which had occasioned the nation so much uneasiness, and with a fac simile of which the Parliament had been carrying on, and still meant to carry on, the country's business. It is noteworthy that the fragments of this seal were divided between the Speakers of the two Houses—not between the six Commissioners (two peers and four members of the House of Commons) who were the custodians of the parliamentary fac simile.

The time was fast approaching when the Parliament decided to set aside their fac simile of the Royal Seal, and to adopt a device of their own. In the same month which saw Charles I.'s trial, the Parliament resolved to adopt as the *Clavis Republicæ* a Great Seal, having on the one side a map of England, Ireland, Jersey, and Guernsey, the arms of England and Ireland, and the legend "The Great Seal of England, 1648;" and bearing on the other a picture of the House of Commons, inscribed, "In the first year of freedom, by God's blessing restored, 1648." At the time of the king's execution, Sir Thomas Widdrington and Whitelock were the keepers of the parliamentary fac simile; and as soon as that tragedy had been enacted, steps were taken for substituting the new seal

for the counterfeit. It was ordered "that Sir Thomas Widdrington and Mr. Whitelocke, the Commissioners of the Great Seal, be required to surrender the Great Seal now in use, bearing the name and insignia of the late king; and that an ordinance be brought in to authorize the use of the new Great Seal made by the order of the House, and to appoint them the keepers thereof." In compliance with this order the fac simile was broken in the House of Commons by a smith, who did his work in the presence of the Speaker and assembled members. The pieces of the fac simile, together with the bag, embroidered with the royal arms, in which the seal had been kept, were assigned to the two commissioners as "fees." Widdrington, however, declining to act as a Commissioner of the Republican Seal, it was entrusted to a new commission composed of Whitelocke, Lisle, and Keble.

In due course this seal came to the hammer. In 1659 the Rump, on reassembling, resolved "that a new Great Seal be with all speed prepared and brought into this House, according to the form of the last Great Seal made by authority of this Parliament, and that the last Great Seal be brought into this House to be broken before the Parliament." This new seal was a reproduction of the one ordered by the Parliament in January, 1649, save in respect of the legends, which were—"The Great Seal of England, 1651," on the side bearing the maps; and "In the third year of freedom, by God's blessing restored, 1651." Of the destruction of Cromwell's Great Seal, a sufficiently minute description is extant. Whitelocke having laid it before the Rump, a smith broke it into several pieces, which the ex-commissioners divided as their "fees."

The existence of the seal made by order of the Rump did not last many days beyond twelve months; but in

its brief day it saw strange scenes, was the center of much warm contention, occasioned an earnest discussion, the memory of which now-a-days raises a smile, and passed into the hands of several different keepers. Of its strange fortunes notice must be taken elsewhere; for the present it is enough to record its death. In 1660, when the House of Stuart had been restored with much noise of trumpets and an excess of drunkenness, the Republican Seal was doomed to death. It had been instrumental in bringing about the triumph of monarchical principles, but, less fortunate than General Monk, it could not induce the restored party to pardon its misdeeds in memory of its more recent good services. The order was given for its execution, and accordingly it was laid upon the clerk's table in the House of Commons, and by a smith's strong arm broken in the presence of the Speaker, the several pieces into which it was thus divided being distributed amongst its ex-lord commissioners. Forgetful of his own previous statements, Lord Campbell remarks on the destruction of this seal, "This was the final end of the Great Seal of the Commonwealth, which the king himself, in the treaty at Newport, had agreed to acknowledge, and under which justice had been long administered, commissions had been granted to victorious generals and admirals, and treaties, dictated by England, had been entered into with the most powerful nations in Europe." When the noble author penned this sentence, he forgot that the Great Seal of the Rump's manufacture replaced the Great Seal which Cromwell's wise and energetic policy had rendered an object of respect.

For several generations the custom of actually breaking discarded seals has been disused; but the ceremony of breaking—or *damasking*, as it is termed—is still observed by our sovereigns, who, when they thus formally

set aside an old seal, tap it gently with a hammer, at the same time ordering their loyal subjects to regard it as smashed and ground to powder. The old seal thus courteously knocked on the head is still capable of giving an impression; but in these days of accurate records and official vigilance there is no fear that any possessor of a discarded seal will peril fame and estate by applying it to a parchment with a fraudulent intention. To counterfeit an old Great Seal is treason. Even when Henry VI. had been attainted as an usurper, it was for manifest and good reasons held that to counterfeit his Great Seal was an offense against the king's majesty.

Chancellors still regard disused seals as their perquisites; and in modern times no chancellor, during whose official life a Great Seal has been damasked, has failed to claim it as his right. In families ennobled by the law, the damasked seal, held by an ancestor whilst royal virtue yet remained in it, is treasured amongst sacred heirlooms and relics. Instead of imitating the indifference with which Edward III.'s chancellor gave the fragments of a broken seal to his sealer, the modern chancellor seizes a damasked device with a triumphant eagerness almost equal to that with which he clutched the seals on his first accession to office, when they were not empty baubles, but mysterious channels through which the sovereign dispensed his gracious will.

Within the memory of men who are still young, there was a keen contest between Lord Lyndhurst and Lord Brougham with regard to their respective claims to George IV.'s Great Seal. On William IV.'s accession, when an order in council was made for a new Great Seal, Lord Lyndhurst was the Chancellor; but before the king's engraver had accomplished the order, and while George IV.'s seal was still in use, Henry Brougham became the keeper of the king's conscience. When, at length, the

seal of the last reign was damasked, the question arose —to which of the two lawyers, the chancellor or the ex-chancellor, it fell as a perquisite of office. Lord Lyndhurst (who was unquestionably in the wrong) advanced his claim on the ground that, as the order was made during his tenure of office, the seal was actually discarded during his chancellorship, and therefore it fell to him. On the other hand, Lord Brougham argued that the order for a new seal was but a step prudently taken in anticipation of the act by which George IV.'s seal was destroyed; that, whilst the order was being executed by the engraver, the seal of his late Majesty George IV. was in fact as well as theory the seal of King William IV.; that he, Baron Brougham and Vaux, had held this same seal and done business with it, no one venturing to hint that its virtue was impaired or in any way affected by the order in council; that the seal was not destroyed till William IV. damasked it, at which time he, Lord Brougham, was its holder. In short, the chancellor contended that the order in council was no part whatever of the act which destroyed the old seal; that it was but a provision against the time when the king should see fit to change his old seal, bearing his predecessor's image, for a new seal adorned with his own likeness.

Lord Brougham established his claim in the opinion of lawyers, but Lord Lyndhurst would not recede, and though the dispute was nominally an amicable difference, it occasioned some very warm discussion amongst the more enthusiastic adherents of the two great men. Lord Lyndhurst's friends, in searching for precedents, fell back on a case that was attended with awkward reminiscences to the ardent champions of monarchical principles, who thus cited it in their behalf. When the republican seal was broken in the House of Commons in 1660, Hyde was Lord Chancellor, and yet its fragments did not fall

to him, but to men who were, for the sake of argument, represented as his predecessors in office—the ex-Lords Commissioners. At first appearance the case might seem to favor Lord Lyndhurst's pretensions. The republican seal in a certain sense was King Charles II.'s seal; he had agreed to acknowledge it, and it had been affixed to writs running in his royal name. It cannot be questioned that the seal of the Rump had become the king's seal. But the king had at the same time another Great Seal, bearing his style and image, which seal his Lord Chancellor Hyde had kept and used, both during the existence of the republican seal, and prior to its manufacture. He was thus, like Edward III., an English king with two Great Seals, one of which his Lord Chancellor attending him abroad had used, and still retained on his return from foreign parts; whilst the other had been in the hands of commissioners, whose official existence His Majesty had recognized, and who had done the royal business during the king's absence from the realm. In theory and practice the republican Lords Commissioners had been the King's Commissioners, and when, on his return to England, Charles directed that the seal for which he had no further use, should be destroyed, its remains fell in accordance with custom to its last keepers, who were not Hyde's predecessors in office, but rather were Lord Keepers, whilst he, according to the theory of the royalist, was Lord Chancellor. Thus the case on examination was found to have no special bearing on the difficulty under consideration. It agreed with the rule that damasked seals should fall to their last appointed keepers. But Lord Lyndhurst was not the last appointed keeper of the seal bearing George IV.'s image; King William had actually entrusted it to Lord Brougham.

The dispute was at its height, when William IV., acting as arbitrator with the consent of the parties,

terminated the contest by a decision which, like most decisions arrived at by arbitration, was directly in defiance of principle, precedent, and law. To one lawyer the reverse of ths seal was awarded, to the other the obverse; and in order that his decision might be acceptable to both suitors, the king directed that each part should at his own royal cost be set in a rich silver salver.

Damasked seals are usually thus preserved in settings of precious metal. In the schedule of heirlooms, annexed to Lord Eldon's will, mention was made of his salvers containing George III.'s Great Seal.

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## CHAPTER VI.

PRIOR to the fourteenth century the Great Seal was so perpetually on its travels that a more obstinate vagabond could not have been found in the kingdom. Whithersoever the king went it did its best to dance attendance on the royal person; and in order that it might the more easily achieve its courtly purpose, special arrangements were made for its entertainment and convenience.

It is uncertain at what exact date the lawyers first entered their quarters at Westminster. In Edward II.'s reign mention is made of the hall as a place where the chancellor held his sittings; but as the record, bearing date July, 1310, in which it occurs contains the words "ubi cancellarii Regis sedere consueverunt," the precise antiquity of the usage remains in doubt. A record of the nineteenth year of the same reign mentions for the first time the "tabulam marmoream," at which the chancellor was accustomed to sit. Amongst the beneficial

reforms for which history renders thanks to Edward III. was the arrangement which fixed the Chancery and Queen's Bench at Westminster, thereby relieving suitors in those courts and their lawyers from the disagreeable and costly necessity of following the king's person.

The adventures of the Great Seal on its travels would of themselves make an amusing book. When Richard I. started for Palestine, he left the government of his realm to Chancellor Longchamp, and took with him the Great Seal under the custody of Vice-Chancellor or Keeper Malchien. Proud of his office, and obeying the usage of the time, Keeper Malchien always bore the Great Seal round his neck, to the great admiration of the vagrant and chivalric courtiers. Off Cyprus the good man had the ill luck to topple overboard into the sea, and to be drowned, together with the bauble under his charge.

There exists no conclusive evidence as to the end of Charles II.'s first Great Seal, which he caused to be made in Holland, carried to Scotland, and held in his possession when he marched at the head of his Scotch soldiers to the battle of Worcester. The belief, however, prevails that it found a watery grave in the Severn, having been thrown into that river, so that it might not fall into the hands of Cromwell's soldiers.

This story receives some support from the mode in which James II. endeavored to make away with his Great Seal in 1688. When the foolish, fallen king, disguised and full of fears, stole from Whitehall on the night of December 10, and attended by Sir Edward Hales, entered a hackney-coach, the Great Seal was in his pocket. Clattering over uneven ways, the humble carriage passed through dark and dangerous streets to the Horse Ferry, Westminster. At that point the fugitives dismissed their driver, and made the transit of the

river in a boat rowed by a single sculler. Half the passage was accomplished, when the sovereign drew forth the seal, and dropped it beneath the gloomy surface of the water. It may be that as the seal left his hand he thought of his brother's act done after the defeat of Worcester; it may be that he had been determined to throw his seal into the Thames by the recollection that his brother had in like manner enriched the mud of the Severn.

But the grave surrendered its victim. William of Orange used this same seal in the first business of his reign. The exact day of its recovery is unknown; but a fortunate fisherman caught it in his net, and after his first surprise had subsided, bore it in triumph to the Lords of the Council, who in due course placed it in the hands of the Deliverer. When the gentlemen of the long robe hastened to Whitehall with an address expressive of loyal attachment to William, Maynard's grey head and venerable presence were conspicuous in the first rank. The lawyer was in his eighty-eighth year, and with pleasant courtesy the Prince congratulated him on the honors of his green old age, and observed that he must have outlived all the lawyers of his time. "Sir," answered the old sergeant, with ready wit, "if your highness had not come over to our aid, I should have outlived the law itself." On the 4th of March, Sir John Maynard, Anthony Keck, Esquire, and Mr. Sergeant Rawlinson were appointed Lords Commissioners of the Great Seal; and in that capacity they held and used the seal which had been fished out of the Thames, until (in compliance with an order made in council on May 23, 1689) a new Great Seal, adorned with likenesses of William and Mary, was substituted for the late king's device. On Mary's death, William III. had another Great Seal engraven, from which the consort's image and name were omitted.

In the recovery of James's seal from the bed of the river, Sir John Dalrymple saw a proof that Providence was benignantly disposed towards the new dynasty. "Heaven," he insisted, "seemed by this accident to declare that the laws, the constitution, and the sovereignty of Great Britain were not to depend on the frailty of man.

> 'Dum domus Æneæ Capitoli immobile saxum
> Accolet, imperiumque pater Romanus habebit.'"

Bishop Burnet alludes to the occurrence in a scarcely less amusing manner. "A fisherman," says the prelate, "between Lambeth and Vauxhall, was drawing a net pretty close to the channel, and a great weight, not without some difficulty drawn to the shore, which, when taken up, was found to be the Great Seal of England." Whatever difficulty the fisherman may have experienced in drawing his net to the shore, the weight of the seal cannot have added much to it.

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## CHAPTER VII.

ENOUGH has been said of perils by water. The time has come for saying how robbers have attempted, once unsuccessfully, and once with complete success, to obtain possession of the Clavis Regni. During the night of February 7, 1677, Lord Chancellor Nottingham's house in Queen Street, Lincoln's-inn-fields, then and long afterwards a fashionable street for legal dignitaries, was broken into by the famous Thomas Sadler, possibly an ancestor of another thief (bearing the same surname spelt with the difference of one letter), who a few years since met a tragic and appropriate end on Hampstead Heath. Mr. Thomas Sadler was in Charles

II.'s London as daring and renowned a robber as Mr. Richard Turpin, or Mr. John Sheppard, in days nearer our own time. He never lacked money, for when his funds were low he had but to walk in the Mall, or visit a theater, or gallop to Hounslow, and he returned to his modest home laden with riches. His good fortune was too unvarying. Puffed up with success, and sated with vulgar triumph, he became fanciful in the pursuit of his art, and yearned for the attainment of rare prizes—not on account of their value, but for the sake of the renown which would follow from their seizure. Less greedy of gold than of *éclat*, the gallant fellow resolved to carry off the Great Seal. With this end in view he effected an entrance into the Lord Chancellor's house at about one hour after midnight; but with less luck than merit he was only able to bear away the mace. The burglary was committed whilst Heneage Finch was sleeping soundly in bed, and the great seal was securely hidden under the sleeper's pillow. A more laughable instance of fidelity to official trust it would be difficult to point to in the annals of the chancellors. Well had King Charles said, "Take it back, my lord, I know not where to bestow it better." After a short lapse of time, Thomas Sadler was apprehended and put upon his trial for this humorous offense against English law. The barbarous custom of the age forbade him the protection of counsel, and twelve jurymen were induced to deliver a verdict which led to his death under painful and ignominious circumstances. Four accomplices in the theft were also convicted, but Sadler alone was hanged.[1]

More than a century later, Thomas Sadler's magnificent

[1] *Vide* "A Perfect Narrative of the Apprehension, Trial and Confession on the day before mentioned of the five several persons that were confederates in stealing the mace and the two privy purses from the Lord High Chancellor of England, at the Sessions held at the Justice Hall in the Old Bailey."

failure inspired a housebreaker with an ambition to accomplish the feat which his forerunner had almost achieved. The attempt was made in the early morning of March 24, 1784, when Lord Thurlow was the Keeper of the King's Conscience, and resided in Great Ormond Street. At the present day this street is seldom visited by people of the high world, and when a great lady orders her coachman to drive to one of its houses, she is bound on an errand of Christian charity to the Hospital for Sick Children, or some other of the charitable institutions into which the decayed mansions of that dingy, picturesque, and very dilapidated thoroughfare have been converted. But in times gone by few streets were more familiar to people of fashion. In its palmiest days it was part of the northern boundary of the metropolis. The spacious gardens flanking the houses on the northern side ran back into the fields, and ladies could sip their morning chocolate at open windows through which pure country breezes came fresh and musical. At night the street was a scene of noisy and picturesque commotion, —with windows brilliantly illuminated, and carriages drawn by four or even six horses; with beautiful women, rich in brilliant jewels and superb in attire, visible through the glasses of coaches and sedans; with linkmen brandishing torches, men of fashion wearing dainty full-dress swords, and notable for delicate lace, and a surging mob of beggars and pickpockets bent on cheering the great folk, enjoying the sight, and advancing their own pecuniary interests. After dark in that roistering, rollicking time, every house was given up to music, cards, and dancing; but at noon on sunny days, when the street was tranquil, the residents of the northern side might be seen walking in their pleasant gardens, or looking from their postern windows towards Hampstead, Highgate, and Islington, over the green sweep which in those days

often heard the cry of wildfowl, but was soon to be covered with the dwellings of Guildford Street and Brunswick Square, and the dismal and seldom traversed regions of Mesopotamia, that lie beyond Mecklenburgh Square and worthy Captain Coram's Home for Foundlings. Long after Great Ormand Street had ceased to be a quarter of highest fashion, it was well esteemed as a thoroughfare in which great noblemen were still to be found, and as the center of that law quarter—now-a-days called the "old law quarter"—from which Chief Baron Pollock retired but a few years since, and in which a few members of the bar still reside for the sake of old associations and low rents.

Lord Thurlow lived in Great Ormond Street at a time when judges and sergeants, king's counsel (a "select few" in the last century), and wearers of stuff, constituted the majority of his neighbors in Bedford Row and Queen Square, and the residential streets lying between those points.

Whilst "The Great Bear" of the lawyers replenished his cellar and entertained his friends with good port in Great Ormond Street, at the date already mentioned, a thief leaped over the garden wall, forced two bars from the frame of the kitchen window and crept upstairs to the room in which the Chancellor was wont to keep the Seal. The *Clavis Regni* was found in its accustomed place, and the thief carried it off, snugly enveloped as it was in two bags, and also laid hands upon two silver-hilted swords, and a trifling sum of money. The robber effected his escape without arousing the Chancellor or any member of the family. Lord Campbell, it should be observed, and the writers from whom he has taken this story, concur in representing the theft as the act of more than one thief, but as all attempts to discover the offender or offenders were in vain, it is unknown whether

but one or more than one burglar entered the house. The footprints in the garden seemed to indicate that at least two persons had been concerned in forcing the bars of the window; but it is most probable that only one man entered the dwelling.

As soon as the sun had risen the theft was discovered, and before the "law quarter" had breakfasted it was known to every member of the legal profession resident in London that the Great Seal was no longer in Lord Thurlow's hands. The news ran like wildfire, and by midday the tatlers of the Temple and the quidnuncs of the coffee-houses were repeating a hundred different versions of the story. By some it was gravely asserted that the theft was achieved by the Whigs under the impression that the sudden withdrawal of the seal would so embarrass the ministry that they would be compelled to resign. That this eminently ridiculous suspicion was entertained by political partisans is proved by one of the contributors of the "Rolliad," who writes:—

> "The rugged Thurlow, who, with sullen scowl,
> In surly mood, at friend and foe will growl,
> Of proud prerogative the stern support,
> Defends the entrance of great George's court
> 'Gainst factious Whigs, *lest they who stole the seal*
> The sacred diadem itself should steal:
> So have I seen near village butcher's stall
> (If things so great may be compared with small),
> A mastiff guarding on a market-day
> With snarling vigilance his master's tray."

By others it was affirmed that the seal was required for the fabrication of a spurious charter or patent, the consequences of which might not transpire beneath the observation of the present generation. The more probable explanation of the bold felony is that the burglar perpetrated his crime under the erroneous but not unnatural impression that the possession of that particular seal was a matter of the highest importance to the Chancellor and all persons concerned in the government of

the country, and that the ministry would consent to pay a vast sum of money, and guarantee impunity to the thief who should restore the bauble.

If this was the thief's expectation he was greatly disappointed. As soon as the Chancellor arose, he called on Mr. Pitt in Downing Street, and the two statesmen forthwith hastened to Buckingham House, where they informed the king that a burglar had made off with his Great Seal, but fortunately had not taken the Royal Conscience with it. A Council was forthwith called, and on that same day—March 24, 1784—an order was given for the immediate manufacture of another seal for the Chancellor's use.

By noon of the following day the chief engraver laid before the Council a seal, hastily designed and imperfectly finished, which was forthwith put in use, and remained the *Clavis Regni* until April 15, 1785, when it gave place to a new seal of proper excellence and workmanship.

The history of this third Great Seal was remarkable beyond the annals of all other Great Seals, both in respect of the men who held it, and the purposes to which it was applied. It was the seal which Wedderburn, the useful defender of Samuel Johnson and the hired calumniator of Benjamin Franklin, seized as the reward of unscrupulous services and as compensation in full for the loss of every honest man's respect.

It was the same Great Seal which had been felicitously called Erkine's Extinguisher. For less than fourteen months Thomas Erskine held it; and for that brief period of official triumph, the eloquent advocate and sincere champion of popular interest sacrificed wealth, position, applause,—everything but personal honor. On losing office he was a peer, a wit, a man of fashion; but he had lost the princely income which he had for

years won in the exercise of his profession, and he could never again hope to be the idol of the populace, and the public actor to whom the educated leaders, not less than the rabble of his party, looked for protection and rendered enthusiastic homage. When imprudent speculations and foolish extravagance had driven him to pawn his modest pension, and caused him to anticipate the chill penury of his closing years, he remembered with regret the sacrifice he had made to ambition, and reflected feelingly on the cruel fortune which deprived him of office before he could provide for the future. In men of less fine nature such reminiscences occasion splenetic outbursts and sarcastic ill-humor; but Erskine smiled at his own disaster, and enjoyed the better luck of less deserving competitors. At a dinner-party Captain Parry was asked what was the principal food of himself and his crew when they were frozen up in the Polar seas. "We lived chiefly upon seals," was the captain's answer. "And very good living, too," interposed Erskine, "if you keep them long enough."

One of the strangest accidents that befell George III.'s third Great Seal occurred at Encombe, in the autumn of 1812. Eldon was then Lord Chancellor, and was residing at his country seat, when part of the house was destroyed by a fire that broke out at night. With admirable expedition the fire-engine was at work, and Lady Eldon's maid-servants were helping to supply it with water. "It was," wrote Lord Eldon, "really a very pretty sight; for all the maids turned out of their beds, and they formed a line from the water to the fire-engine, handing the buckets; they looked very pretty, all in their shifts." But ere the Chancellor found time to survey the maid-servants with approval, he had provided for the safety of the Great Seal, which he was accustomed to keep in his bedchamber. The mishap of his

old friend Thurlow had been a lesson to the cautious Eldon ; and rather than have run any risk of losing the Great Seal by robbery he would have imitated Heneage Finch, and slept with it under his pillow. At the first alarm of fire the Chancellor hastened out of doors with the Great Seal, and burying it in a flower-bed confided it to the care of mother earth. That prudent act accomplished, he ran to the aid of his maid-servants.

But when morning came, and the sun looked down on a mansion damaged, not destroyed, by fire, it occurred to Eldon that it was time for him to recover the seal from its undignified concealment. With that intention, he bustled off to the long terrace where he had buried his treasure ; but on arriving there, to his lively chagrin and alarm, he found that he had omitted to mark the exact spot of its interment. Whether the grave had been dug in this bed or in that—whether on the right or the left of the gravel walk—whether above or below the fish-tank—he could not say. In his perplexity he sought counsel of Lady Eldon, and by her advice the same maid-servants who had figured so picturesquely by firelight, together with the entire staff of gardeners, were provided with spades, shovels, trowels, pokers, tongs, curling-irons, old umbrellas, and other suitable implements, and were ordered to probe old mother earth in the region of the long terrace, until she delivered up the "pestiferous metal" which had been committed to her in trust. "You never saw anything so ridiculous," observed his lordship, "as seeing the whole family down that walk probing and digging till we found it." A burden of anxious care must have fallen from the Chancellor's mind when the cry of "Found, my lord!" reached his ears.

It was the fortune of this Great Seal, on two separate occasions, to be abused by the Chancellor holding it in

trust; and, strange to say, in each case the abuse was cordially approved by the majority of thoughtful Englishmen. No Chancellor may apply the Great Seal to any instrument until he has received the king's orders to do so; and yet twice during the life of George III., and for the furtherance of arrangements in which the monarch was concerned beyond all other men, the seal was used without his permission, and with a false pretense that his sanction for its employment had been obtained. In 1789, while George III. was a maniac, in the hands of a mad doctor, who placed his royal patient in a strait-waistcoat, and subjected him to a rigorous discipline, Lord Thurlow put the Great Seal to a commission authorizing certain spiritual and temporal lords to open Parliament with all due formality. And the two Houses resolved to assume that this commission, of which the king knew nothing whatever, was authorized "by the king himself, with the advice of the lords spiritual and temporal and commons assembled, according to the prorogation aforesaid." Again, in 1811, Lord Eldon (who at two critical periods had repeatedly assumed the king's capability to govern, when he was in a state of mind that would be more than sufficient ground for depriving a tradesman of the right to manage his own shop) put the seal under similar circumstances to the mock commission, the commissioners named in which went through the form of declaring the royal assent to the Regency Bill. The commons having appeared at the bar of the Upper House, Lord Eldon said: "My lords and gentlemen, by the commands and by virtue of the powers and authority to us given by the said commission, we do declare and notify His Majesty's royal assent to the Act in the said commission mentioned, and the clerks are required to pass the same in the usual form and words." Thus the royal assent was accorded to the Regency Bill,

an act of which the king knew no more than the babe unborn—an act which transferred the regal powers to the monarch's eldest son, leaving the empty title of king to the forlorn old man, who throughout the remaining years of his life was under restraint.

Of good legal *ana* connected with parliamentary discussions, relative to George III.'s attacks of madness, perhaps the best is that which preserves the pithy criticism on Lord Thurlow uttered by Wilkes. Like his friend John Scott, Thurlow could shed tears and be wondrous pathetic whenever tears could aid his eloquence. After dexterously coquetting between the queen's and the prince's parties in 1788, he delivered in the House of Lords his memorable declaration of gratitude to, and affection for, the afflicted king. Having broken this harangue with several distinct fits of nervous agitation, and at one point having wept copiously, he resumed the clearest melody of his sonorous voice, and concluded with these words.—"A noble viscount has, in an eloquent and energetic manner, expressed his feelings on the present melancholy situation of His Majesty—feelings rendered more poignant from the noble viscount's having been in the habit of personally receiving marks of indulgence and kindness from his suffering sovereign. My own sorrow, my lords, is aggravated by the same cause. My debt of gratitude is indeed ample for the many favors which have been graciously conferred upon me by His Majesty; *and when I forget my sovereign, may my God forget me!*" As Thurlow sat down the sensation amongst his brother peers was profound; but Liberty Wilkes, who had been an auditor of the speech, was less deeply affected. A vicious light burnt brightly in his squinting eyes, and, as a more than usually diabolical sneer played upon his hideous face, the people's friend hissed out—"God forget you! He'll see you —— first"

George III.'s third and last Great Seal—which, to say nothing of commissioners, had been held by Thurlow, Loughborough, Erskine, and Eldon—after the king's death fell to the last-mentioned peer, by whose descendants it is regarded with reasonable pride.

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## CHAPTER VIII.

IN these pages allusion has more than once been made to the rival Great Seals, of which this chapter will take especial notice.

On Saturday, May 21, 1642, Lord Keeper Littleton was sitting in his house in the Strand, musing over the troubles of the time, and facing the many difficulties and dangers of his political position. The crisis had arrived when the timid man might no longer vacillate between two conflicting interests. Either he must accept the chances of service under the Parliament, or he must lose no time in hastening to York and regaining the favor of Charles, who had been incensed by the lawyer's votes on the Militia Bill, and had conceived thorough distrust of him.

Edward Littleton, Lord Keeper of the Great Seal, had already resolved to take the latter course. Though anxious to be in any case on the winning side at the end of the struggle, he had always in his heart wished well for the royal party. He had temporized, had played a cautious but scarcely subtle game, had satisfied Edward Hyde as to the soundness of his loyalty, and at the same time had contrived to make the popular leaders think him a philosophical republican. There is no sufficient ground for charging him with systematic falsehood to either party. That he could tell a lie to serve an important end no historian will venture to question; but he was

not habitually untruthful. To the king's friends, who had always enjoyed his affectionate confidence, it was his custom to speak the truth; to the parliamentary chiefs he adopted a policy of reticence, enlivened by wary intimations of what he might do under circumstances which he secretly thought would never happen.

But whilst the Lord Keeper was biding his time in London, Charles I., at the head of his forces at York, had become uneasy for the fate of the Great Seal, and on hearing of Littleton's vote upon the Militia Bill, had learned to think his most exalted lawyer no better than an arrant knave. Explanations in some degree appeased the king; but he had resolved to keep his own seal and also its keeper within the reach of his royal arm, and with every appearance of satisfaction Littleton had responded to an intimation that in a few hours he would receive a formal summons to convey the Great Seal to York. As he sat in Exeter House, Strand, he was awaiting the arrival of the king's messenger.

Ere long Mr. Elliot, a courtier who on that occasion acted the part of a special messenger from the crown, approached the Lord Keeper, and put in his hands a letter written by the king himself. The note required the Lord Keeper to travel with all convenient expedition to York; it also directed him to give the Great Seal into the hands of the gentleman who should show him the letter. So great was his distrust of lawyers, Charles wished the seal to be forthwith confided to a man in whom he had confidence. The courteous words of the royal letter could not conceal the insult; and though Littleton surrendered the seal, as a loyal subject was bound to do, he did not hide his sense of the indignity put upon him. A smart altercation took place between him and Mr. Elliot; and when the swaggering cavalier quitted the deposed Lord Keeper, he cursed him for being a rogue—like all lawyers.

Mounting horse, Elliot make the journey to York with admirable speed. The stories of the expedition with which letters were carried between Charles at York and Hyde in London are almost beyond belief. For this postal service, loyal country gentlemen on the road between the two cities used to keep swift horses at the disposal of royal messengers. Aided by these relays, letter-bearers have been known to gallop from London to York and back again in thirty-four hours. That racing-horses could thus cover the ground traversed by Turpin's "Black Bess" is no matter for surprise; but cold calculation is set at defiance by the pluck and endurance of the gentlemen-couriers who kept in their saddles from sunrise till the evening of the next day, galloping over wold and moor and broken ground. Of course Elliot had a fresh horse waiting for him at the close of every twenty miles; but praise is his due for making the most of favorable circumstances. Charles was delighted at his sudden reappearance, and listened in gleeful humor to the boastful fabrications with which he adorned the narrative of his journey. Not content with ridiculing the fallen Lord Keeper, the messenger maintained that Littleton "had refused to deliver the seal," and that eventually "he got it by force by having locked the door upon him, and threatened to kill him if he would not give it to him, which, upon such his manhood, he did for pure fear consent unto." Doubtless the courier on his way from London had drained many a foaming tankard of ale, and many a cup of canary. Excitement caused by drink, and by nervous agitation consequent on fierce and prolonged exertion, had crazed the man; and under the influence of liquor and vain arrogance, he uttered statements which no one save Charles believed, though it was impossible to disprove them.

Since the Earl of Arundel and Lord Paget mounted

horse and bore the Great Seal to Queen Mary at Framlingham Castle, the Clavis Regni had not taken such a rapid ride. But notwithstanding Elliot's expedition, Littleton soon appeared at York to give the lie to his assertions. More than fifty years of age, and suffering from a malady that rendered horse-exercise alike painful and dangerous, Littleton threw himself into the saddle, and attended by his faithful purse-bearer, Lee, followed the Great Seal to York, where he arrived at the end of the third day after his departure from London. Charles received him coldly; but eventually, through Hyde's good offices, Littleton was received into favor, and after a period of probationary service (during which he was only permitted to use the seal under strict *surveillance*, and the king was in reality his own Lord Keeper), he was fully reinstated in office. As Lord Keeper of the Great Seal, he presided over the mock High Court of Chancery, established by Charles in the Philosophy Schools at Oxford, and on his death the seal passed into the hands of Lord Keeper Lane, who surrendered it to Fairfax in the summer of 1646.

Thus between May, 1642, and the Oxford capitulation in 1646, the original and true Great Seal of Charles I. was not in the hands of the actual rulers of the country.

As soon as the parliamentary chiefs ascertained the flight of Littleton to York, they issued a warrant for his apprehension, and raised the hue-and-cry. Unable to recover the fugitive keeper and the King's seal, they resolved, after much debate and many conferences of the two Houses, to make a fac simile of the royal device. Before coming to this resolution, they had by a solemn decree deprived of all virtue the seal which found its way back to Charles. At first no engraver appeared willing to counterfeit the Great Seal; but Marten, the regicide, persuaded Simonds, the medallist, to undertake

the perilous task on the direct order of the House, conveyed to him personally. Simonds was therefore introduced by Mr. Marten, and received a warrant bearing the Speaker's signature, and running thus:—"Ordered that Mr. Simonds be required and enjoined forthwith to make a new Great Seal of England, and that he shall have £100 for his pains, £40 in hand, and three-score pounds as soon as he shall have finished the work." Engraved on silver, and in all respects resembling the King's Great Seal, the new *Clavis Regni* was completed and brought to the House on September 28, 1643.

On August 11, 1646, as the reader has already seen, the original seal was destroyed at the bar of the House of Lords.

Thus for a period slightly less than three years there were two rival Great Seals.

This state of things was repeated when Charles II., an exile in Holland, provided himself with a Great Seal, which he kept in his own hands, until the battle of Worcester caused him to fly once more to the Continent. This seal, the rival of the Republican Great Seal, was the device which the second Charles is believed to have buried in the river Severn.

In the year 1652 Charles had a new Great Seal engraven in Paris, and entrusted it to Lord Keeper Herbert, the ill-starred gentleman whose devotion to the Stuarts was only equaled by the ingratitude of the titular monarch, in whose service he utterly ruined himself. When Charles quitted Paris in June, 1654, leaving Herbert to die of a broken heart, or of poverty, he took the Great Seal with him; but having no use for it, he did not entrust it to an official keeper, until he made Edward Hyde his Lord Chanceller, on January 13, 1658, whilst he and his little band of penniless adherents were quarreling amongst themselves at Bruges.

A volume of romance might be written about the adventures of this seal. The rival of both the republican seals, it was Charles's brightest as well as his darkest fortunes. It was amongst his possessions at times when he literally could not have paid for the wax requisite for a single sealing; it was borne into the House of Lords and the Court of Chancery by Edward Hyde, when the king came to his own again; and besides witnessing Hyde's downfall and flight, it played an important part in some of the most iniquitous transactions of English history.

Very humorous was the perplexity of the royalists with regard to this seal's second rival, when friendly relations had been brought about between the king and his subjects. In 1660, whilst Charles was still in foreign parts, but was on the point of returning, it was resolved that the king's name should appear in all writs to which it should be necessary to attach the Great Seal. But the only Great Seal at hand, and ready for use at that time of countless emergencies, was the Rump's "Great Seal," bearing for an inscription "The Great Seal of England, 1651, in the third year of freedom, by God's blessing restored." A select committee of the Commons was requested to consider "whether for the carrying on and present expediting of the justice of the kingdom, the House shall think fit that the Great Seal now in the possession of the Earl of Manchester and the other Commissioners be made use of until further order?" The committee reported in the affirmative, and the Commons besought the Lords to join with them in authorizing the use of the bauble. But the hereditary legislators merely replied that "they would return an answer by messengers of their own." The answer, of course was not given; and though the Lords consented to wink at the use of the republican seal, in order that business connected with

the king's reception might be carried out, they to the last abstained from prositively sanctioning its employment. There was some real difficulty connected with the case. Theoretically the commissioners of the republican seal had become the king's commissioners, disharging the functions of a Lord Keeper of a duplicate seal, whilst the king and his Chancellor were out of the realm; but the Act of Elizabeth, passed at the commencement of Sir Nicholas Bacon's tenure of the seal, seemed to deprive the crown of the right to a chancellor and a keeper holding office concurrently. Moreover, the custom for reigning kings to use for a while the seals of their immediate predecessors did not put out of sight the inconsistency of employing in behalf of monarchical principles an emblem of republican government. Indeed, in the opinion of many persons, that usage only pointed the indignity offered to Charles II. in the proposal that he should, by the hands of his servants, adopt a seal which expressed gratitude to heaven for the disasters of himself and his family.

In a sketch of the rival seals there is no need to mention the seals of the exiled Stuarts, after their final expulsion from the land which they misgoverned. When James II. had established his mock court at St. Germain, a Parisian artist engraved for him a new seal, which was confided to the care of Sir Edward Herbert, son of the Sir Edward Herbert who, as Charles II.'s Lord Keeper, was the rival and enemy of Hyde. The fate of Lord Herbert has been sufficiently noticed. It was one of wretchedness; and the fortunes of his son were scarcely at all brighter. The grander title of Lord Chancellor was indeed given him by the banished king; and by pseudo-royal order he put the fictitious seal to a parchment that styled him Baron Portland of Portland, in the county of Dorset. But patent, seal, and

king were alike unreal: and the poor gentleman died in poverty, a commoner and an exile, at the close of the seventeenth century.

After James's death in 1701, his queen made an inventory, which mentions that "the Great Seals of England and Ireland in silver, and that of Scotland in brass," were found in the closet of the royal exile. The silver seals were broken; and of the silver, together with the metal of a "chocolate pot," a "mortar and pestle," a "little candlestick," and another domestic utensil, Mr. Groettier made new seals for the Old Pretender, who was known to staunch Jacobites as James III.

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## CHAPTER IX.

IT is not known when the custodians of Great Seals first began to keep them in bags; but it is certain that the clothing of Victoria's Great Seal is cut after an ancient pattern. When the seal was wrung from Wriothesley's grasp and laid before Somerset, he exclaimed, "I am at last Lord Protector:" and as the words passed his lips he gazed with delight on the red velvet bag adorned with the royal arms, which formed the outer clothing of the *Clavis Regni*. The Close Roll describing the transaction mentions the sacred emblem as "in quadam baga de corio inclusum et coopt., alia baga de velveto rubro insigniis ornat." This is one of the earliest appearances of the red velvet bag which from the middle of the sixteenth century down to the present time is conspicuous amongst the items of our state millinery. Thus attired, the seal of Philip and Mary was delivered by that queen to Archbishop Heath. When Sir Nicholas Bacon received Elizabeth's new Great Seal, he sealed it in its leathern re-

ceptacle, and then put it into a red velvet bag adorned with the royal arms. "Ac illud," says the Close Roll, "in quandam perulam de corio poni et sigillo suo pprio muniri et sigiliari fecit, ac sic munitum et sigillatum in quendam sacculum velveti rubri insigniis regiis decoratum posuit illudque penes se retinuit et retinet." And after the sudden death of that wise and gracious counselor of the virgin queen, his widow—the "gentle saint of heaven," as her son Francis called her—found the Great Seal thus enveloped. On the very day of her lord's death the poor lady, stupefied by her unexpected bereavement, was forced to receive the Lords Burghley and Leicester, whom the queen sent to York House to demand the *Clavis Regni*. Sealed with the dead man's signet, and hidden in its gaudy sack, the object of the untimely visit was presented to the noblemen; and having thus discharged her duty, the widow made a low curtesy to the queen's ambassadors, and retired to kneel beside a silent bed, or weep over her fatherless children.

On less mournful occasions the red velvet bag reappears; giving color and brightness to ball-rooms and state pageants. Shortly before death saved him from the shame of official degradation, Hatton was holding in his hand the splendid bag, when at a tilting he saw Elizabeth present a golden chess queen to Charles Blount, the handsome student of the Inner Temple. As the envious Chancellor saw the exulting youngster bind the trophy to his arm with crimson riband, he recalled the happy days when he was the most comely and popular student of the Inns--the happy days when he knew the joys of ambition, and had no heed for the penalties of success. Failing in health, and rapidly falling in the queen's favor, the Chancellor thought of the past; and emotions of envy, shame, and disappointment gave his cheek a color that matched the hue of his own bag and rival's riband.

The case had altered since he was wont to keep high revel, and bring around the lady who was his sovereign and his guest a galaxy of wits, beauties, and fine gentlemen, equal in splendor and virtue to the throng of any court in Christendom. In allusion to these entertainments (which by the way never occurred "within the spacious walls" to which the poet assigned them) Gray's familiar lines run :—

> "Full oft within the spacious walls,
> When he had fifty winters o'er him,
> My grave Lord Keeper led the brawls,
> The seal and maces danc'd before him.
>
> "His bushy beard and shoe-strings green,
> His high-crown'd hat and satin doublet,
> Moved the stout heart of England's queen,
> Though Pope and Spaniard could not trouble it."

Satisfied with the music and ease of Gray's humorous and oft-quoted lines, readers seldom pause to question their accuracy. Even in Pope there are not many cases where more misstatement has been crammed into eight verses. When he had turned fifty poor Hatton's dancing days were over; if he danced at all, his heart did not keep time with his feet. He died at the age of fifty-one years, and after his installment as Knight of the Garter his decadence was steady and rapid, although at the sacrifice of self-respect he retained the seals to his death. By the time he was fifty Elizabeth had discarded him as a drawing-room knight, though respect for him as a man of business (a side of his character, by the way, to which none of Hatton's biographers pay proper attention) made her resolve to keep him yet a little longer in her service. Moreover, Hatton was Lord Chancellor, not Lord Keeper. For the wrong done him by this understatement of his rank the poet atones in the following line by giving him any number of maces, whereas the Chancellor's office only gave him one.

After Hatton's death, the Great Seal was found by

the queen's messengers, Lord Cobham and Lord Buckhurst, enclosed in a red chest, as well as in a red purse. Having received it "in cista de ferro colori rubri sub clavi nuper cancellarrii recluşa," they conveyed it to the queen at Westminster. It is most probable that the Chancellor, dying of a fatal malady, rather than of that mortification at his loss of the queen's favor, about which biographers has said too much, put his seal upon the chest when he felt his end drawing nigh. Edward III.'s Chancellor, Thorpe, with similar care put his seal, and Chief Justice Knight's device, to the receptacle of the *Clavis Regni*, when he saw that his powers were nigh extinction; and the language of the Close Roll justifies the inference that this precaution was expected of a Chancellor at the point of death.

The dying Egerton yielded his official trust, whilst Death standing over him, hesitated to touch his palsied form. The old Chancellor's last days were disturbed by a visit from Buckingham and Secretary Winwood, who came to York House for the seal, which was delivered to them in its white leather case, and crimson covering. When Francis Bacon's successor, Lord Keeper Williams, placed the seal in the hands of Sir John Suckling, for transmission to James I., it was locked in a costly cabinet, the key of the box being enclosed in a letter to the king, which was sealed with the episcopal seal of Lincoln.

Amongst the sights which warmed the hearts of cavaliers at the Restoration was the reappearance of the red velvet purse, emblazoned with the royal arms; and from that time the purse of state has been a principal item in the list of every Chancellor's official possessions. Once it was conspicuous by its absence. When Lord Keeper Guildford died at Wroxton, after weeks of acute suffering and querulousness, the executors bore the seal with fitting expedition to Windsor, where James II. received

"the pestiferous lump of metal," which he had already in his mind assigned to Jeffreys, and which was destined to pass into the hands of William III., after a brief period of submersion in the Thames. On that occasion the seal was in the silk purse, but not a purse of state; and James, on asking why it was produced in so mean a bag, was answered that the more splendid sack had not been conveyed from London to Wroxton by the late Lord Keeper. "In a few hours," says Roger North, in his life of his brother Francis, "after his lordship's eyes were closed, and his will known in the family, which appointed his brothers to be executors, all the officers of the seal then in the house, came in a body to know what the pleasure of the executors was, touching the Great Seal; as if it had been a matter in danger of being overseen. The executors immediately ordered them all to be ready the next morning, to go along with it to Windsor, where the king was; and the state equipage being made ready for the executors themselves, they took the strong box, in which the seal was kept, and that inclosed in a silk bag, which was also sealed with his lordship's seal. Such a sacred thing is that pestiferous lump of metal! The same night the executors arrived, they waited upon the king, who said, "He heard that his lordship was much mended." The seal was delivered in the bag (sealed) into the king's own hand, who took the bag, and asked if there was never a purse (of state), and it was answered that none was brought down. The king said no more to them; whereupon the executors retired; and as had been long before projected, the Great Seal was put into the Lord Jeffreys' hands, with the style of Lord High Chancellor of England."

Roger North had good reason for calling the seal a "pestiferous lump of metal." Its acquisition in no way added to Francis North's happiness, and greatly aggra-

vated the odium which surrounded him during life, and endures to the present day. Combining the prudence of the knave with the caution of a coward, Francis North had more than once endeavored to escape from the dangers of political service, and expressed his anxiety to purchase security and comparative repose by the sacrifice of his chances of the highest legal post, and also by the sacrifice of money. "Among all the preferments of the law," says Roger North, "his thoughts fixed upon the place of Lord Chief Justice of the Common Pleas; for he knew his own skill in the law so well as to be assured that he was not unfit for it, and chose it the rather because the business was wholly matter of pure law, and had little to do in criminal cases or court intrigues; and he could answer for the rigid integrity of his determinations." His professional income, whilst he was Attorney-General, amounted nearly to seven thousand pounds per annum, "and the cushion of the Common Pleas" brought barely four thousand a year. But he accepted "the cushion" for the sake of repose and freedom from temptation which he had not courage to resist. In an evil hour ambition and cupidity broke down his prudent resolves, and he accepted the seals on bad terms, being pursuaded to take office with a pension of two thousand pounds per annum, whereas his predecessor had successfully bargained for four thousand a year. Giving him the seal, Charles II. said, "Here, my lord, take it; you will find it heavy." And Rogers adds, "Therein His Majesty acted the prophet, as well as the king; for, not long before his lordship's last sickness, he told me and divers other of his friends 'that he had not enjoyed one easy and contented minute since he had the seal.'"

Few chancellors have borne the seals more lightly than Anthony Ashley Cooper, Earl of Shaftesbury,—the wit of whom Charles II. said, "My chancellor knows more

law than all my judges, and more divinity than all my bishops;" and the partisan who was placed on the woolsack solely in order that he might violate the law, and who, after he had fulfilled the infamous purpose of his elevation, was extolled by Dryden's venal muse as a miracle of judicial purity. He clutched the seals, well knowing that they would draw upon him the indignation of honest men and the contempt of competent lawyers; but the reckless politician held cheap the opinions of honest men, and the courtier who was never even called to the bar had neither respect for the learning, nor belief in the integrity of lawyers. He began his judicial career with characteristic cleverness and levity. Knowing that the legal dignitaries were laughing in their sleeves at his advancement, he resolved to render them ridiculous in the eyes of the London mob; and for that purpose he required the judges, in accordance with an old custom revived at the Restoration and discontinued since 1665, to attend him from his residence in the Strand to Westminster Hall, not in their carriages, but on horseback. Never had London witnessed a more ludicrous spectacle than this procession of mounted lawyers, many of whom had not for years been in the saddle, some of whom had never had a riding lesson. Poor Judge Twisden's discomfiture, and the other absurd incidents of that progress, will be fully described in another chapter. For the present it is enough to say that the cavalcade achieved its end in making the gentlemen of the long robe sore at heart—and elsewhere. Shaftesbury, a perfect horseman, won the applause of the crowd, unable to doubt the competency of a Chancellor whose seat was perfect in the saddle; but he fared less to his own satisfaction when he was required to deliver decisions before the dismounted bar. King's counsel, sergeants, and utter-barristers perplexed him with mischievous questions and unintelligible

motions: and day after day forced him to contradict his own judgments. Roger North assures us that this searching discipline soon taught the Chancellor modesty, and that "from a trade of perpetually making and unmaking his own orders, he fell to be the tamest judge, and, as to all forms and course, resigned to the disposition of the bar, that ever sat on the bench." But though after rough lessons he had the prudence to hold his peace, and interfere as little as possible with matters that were beyond his comprehension, he continued to preside in his court with undiminished good-humor, if not with undiminished effrontery, looking "more like a rakish young nobleman at the university than a Lord Chancellor," and attired "in an ash-colored gown, silver-laced, and full-ribboned pantaloons displayed, without any black at all in his garb, unless it were his hat."

But the best fun of Shaftesbury's chancellorship did not appear till the very moment when his rivals at court ousted him out of the judicial seat which he occupied for nearly thirteen months. It was arranged that his degradation should be consummated on Sunday, November 9, 1673, when in the ordinary discharge of official duty he came to Whitehall to attend on the king at chapel. The triumph of his enemies was no secret to him, and when he saw an unusually dense throng of gallants and beauties assembled in the galleries and on the stairs of the palace, he needed no assurance that they had come to witness his dismissal. For a minute there was a hush of busy tongues, as he passed through the crowd to the king's closet. He was still Lord Chancellor, and showing the respect due to his office the loungers drew aside and made a passage for him with suitable obeisance. But he would in another minute be an *ex*-Chancellor, and as he passed on with firm, light step, bearing the purse of state in his right hand, the courtly mob closed in upon

his heels, and exchanged mischievous smiles and curious glances.

Soon the Chancellor was on his knee in the royal closet, kissing the king's hand.

"Sir," he said, "I know you intend to give the seals to the Attorney General, but I am sure your Majesty never designed to dismiss me with contempt."

"God's fish, my lord," answered Charles, who could be cruel to his friends when their backs were turned, but found it difficult to be uncivil to his enemies when they looked him in the face, "I will not do it with any circumstance that may look like an affront."

"Then, sir," entreated the earl, "I desire your Majesty will permit me to carry the seals before you to chapel, and will send for them afterwards to my house."

Of course the request was granted.

Till the time arrived for the congregation to enter the chapel, Shaftesbury kept his sovereign merry with good stories, and when the Protestant king passed from his closet to chapel through two rows of courtiers, with amazement they saw him in friendly conversation with the Keeper of his Conscience, and Heneage Finch turned white with apprehension, as his eyes fell on the purse of state, which the foppish chancellor still swung jauntily to and fro as he laughed gaily at one of Charles's jokes."

Here is a subject for a painter.

The circumstances of Lord Erskine's resignation of the seals recalled the fun of Shaftesbury's retirement. Having received notice of dismissal, Erskine, March 25, 1807, took leave of the bar in a speech delivered in Lincoln's Inn Hall, where the Chancellor then held his court. The next day, he re-appeared—to the surprise of all Chancery practitioners, and much to the chagrin of those who looked for preferment and favor under Lord Eldon. The commotion of the gownsmen was not

greater than that of the courtiers and ministers on the preceding day, when they saw Erskine return from his conference with the king, bearing the purse of state in his hand. Their consternation ceased on learning that the monarch had requested Erskine to hold office for a few days longer, until he had disposed of certain causes which he had partly heard. The seal was finally surrendered on April 7, between which date and the preceding March 25, Erskine braved the disapproval of political adversaries, and provided for his son-in-law, Edward Morris, by appointing him to a mastership in Chancery, which Sir William Pepys was prevailed upon to resign.

In recent times the purses of state have been preserved in legal families, as precious memorials of judicial eminence. Of course, their value is trifling in comparison with damasked seals; since the purses are renewed yearly, consequently every Chancellor who holds office for twelve months can claim one of the gaudy sacks as a perquisite of his place. Amongst the many pleasantly malicious stories told of Lady Hardwicke's meanness, was a fabrication that she stole *the* purse of state and made it into a counterpane. The good-natured people who accepted this jest for truth, never troubled themselves to inquire if a single purse was so large that it could be converted into a covelet for a bed. The story had its foundation in the fact that Lady Hardwicke hung a state bedroom and state bed at Wimpole with crimson velvet, adorning the rich drapery with twenty purses, emblazoned with royal arms. The twenty purses had fallen to her husband during his tenure of the seals, and her ladyship's mode of turning them to use certainly in no way merits ridicule.

## CHAPTER X.

THE Great Seal is not often seen in the weak hands of children or women. Infant monarchs have dropped the broad piece into the eager fingers of newly-appointed keepers, and queens of England have placed the lump of pestiferous metal upon the open palms of Chancellors; but when a woman beneath the rank of a queen is discovered with the *Clavis Regni* in her grasp, she is in most cases merely surrendering the bauble which fate has forbidden her husband to carry any longer. Thus history exhibits Francis Bacon's mother making delivery of the seal after her husband's death; and in like manner, when Whitelock could no further protract his game of timorous ambition, Lady Whitelock carried to Lenthal the Great Seal, which her husband could not without peril retain for another day. That mother of many children was full of anxious fear when she was ushered into Mr. Speaker's presence, and proffered him the box which contained the republican device. As he took the key from her trembling hand, and looked down upon her pale face, doubtless Mr. Speaker cheered her heart by inquiring with significant kindness for the health of the lawyer who had wisely deputed her to act for him.

One case there is, however, where the Great Seal is found in the hands of a woman appointed to act as custodian of her sovereign's conscience, and to discharge the functions of a Lord Chancellor.

The lady thus signally preferred above the rest of her sex was Eleanor of Provence—the beautiful, lavish, witty, extortionate queen who wrote a poem in her native tongue ere she had completed her fourteenth year; plundered the worthy citizens of London at the quay—styled Queenhithe even to this day; enraged nobles and

churchmen by the favors which she distributed amongst her relations; narrowly escaped death at the hands of the London citizens who would fain have drowned her for a witch; and, after countless strange experiences, closed her career in the religious quietude of a holy house. Legend and chronicle preserve the memory of her singular grace and lively humor, the brightness of her jewels, and the splendor of her state, her unjust acts and evil fame. Piers of Langtoft sings—

> "Henry, owre Kynge, at Westminster tuke to wyfe
> Th' Earle's daughter of Provence, the fayrest Maye in life.
> Her name Elinor, of gentle nurture;
> Beyond the sea there was no suche creature."

But of all the strange accidents which befel the fair and false mother of Edward I., her elevation to the post of Lady Keeper was perhaps the most laughable. Having occasion to cross the sea and visit Gascony, A. D. 1253 Henry III. made her Keeper of the Seal during his absence; and in that character she in her own person presided in the *Aula Regia*, hearing causes and, it is to be feared, forming her decisions less in accordance with justice than her own private interests. Never did judge set law and equity more fearfully at nought. Not content with the exorbitant sums which she wrung from the merchants whom she compelled to unload their ships at her royal hythe, the Lady Keeper required the City to pay her a large sum—due to her, as she pretended, from arrears of "queen gold;" and when Richard Picard and John de Northampton, sheriffs of London, had the presumption to resist this claim, she very promptly packed them off to the Marshalsea. Having thus disposed of the sheriffs, she, on equally unlawful grounds, subjected the Lord Mayor to like treatment.

But the great event during her tenure of the seals was the birth of her daughter Catherine, on St. Catherine's

Day, 1253. The Keeper of the Seals was not actually delivered on the bed of justice; but with only a slight departure from literal truth, the historian may affirm that the little princess was born upon the woolsack.

# II.

# LAWYERS IN ARMS.

## CHAPTER XI.

FOR centuries the majority of our English lawyers were ecclesiastics; and for centuries our mitred judges evinced no reluctance to mount horse and wear mail. Chief Justiciar Odo, a type of these holy and martial lawyers, certainly contributed as much as William to the success of the Norman invasion. It was his voice that, thundering from Norman pulpits, stirred grim barons and impetuous knights to support their feudal chieftain; it was his purse that equipped a fleet for the cause, and armed a company of chosen warriors; and having giving words and money, he was no less willing to give his blood. When the French lines covered the Sussex coast, his clear, tremulous, earnest utterances assured them that the God of Hosts was on their side, that those of them who outlived the battle would be victors, and that those who fell would join the blessed saints. And having thus spoken and celebrated the holy mass, the bishop laid aside his sacred vestments, mounted his white war-horse, and grasping his bâton, rode in the van of that fierce flood of chivalry which swept a nation to the earth, and bore the victor to a throne. The Bayeux tapestry preserves the story of this man of God and war; and history tells how, when the

battle had been won, he became his brother's chief justiciar, and spoke cruel judgments from the seat to which he had climbed over the bodies of dead men. Alternately fighting and preaching, he harried rebellious districts with fire and sword, and scattered words of ban and blessing over hard-fought fields. "In seculari ejus functione," says the historian, "non solum rem exercuit judiciariam; sed bellis utique assuefactus exercitum, Randulphi Comitis Estangliæ, suorumque confæderatorum, profligavit; et in ultione necis Walteri Dunelmensis Episcopi, Northumbriam latè populatus est."

Like Odo, the Conqueror's Chancellor, Osmond was a soldier and a bishop. Like Francis North and George Jeffreys, he was also a musician; and as the author of the "Life and Miracles of Alden, a Saxon Saint, the First Bishop of Sherborne," he won a name in letters.

Ralph de Hengham (Chief Justice of the King's Bench under Edward I., and Chief Justice of the Common Pleas under Edward II.) is generally regarded as the first of our non-military common law judges; but it would be difficult to prove that the author of the quaint old law-book, "Randulphi de Hengham Edward Regis I Capitalis Olim Justitiarii *summæ*," never spurred horse against a foe. Lord Campbell says, roundly, "He may truly be considered the father of the common law judges. He was the first of them who never put on a coat of mail; and he has had a long line of illustrious successors contented with the ermine robe." It is, however, scarcely credible that this chief justice of a migratory court in the thirteenth century never wore mail. When it is borne in mind that even within the memory of living men lawyers riding circuit deemed it prudent to carry firearms for their personal security, it is not to be imagined that De Hengham never donned such steel clothing as was worn by all gentlemen of his time.

He may, however, be ranked with non-military lawyers; and army men may be allowed to tell with glee how the first non-militant Chief Justice became a famous rogue. On his return from France in 1289, after an absence of three years, Edward I. was received with complaints against the corruption and venality of his judges. An investigation followed, which resulted in the punishment of De Hengham and other offenders.

Long after the ancient military functions of the Grand Justiciar had ceased to exist, chief justices, during occasions of especial emergency, exercised military as well as civil powers. When the Percies rose in rebellion, Henry IV. empowered Chief Justice Gascoigne to raise forces for the subjugation of the insurgents; and in the subsequent rising of Scrope, Archbishop of York, and Thomas Mowbray Gascoigne was sent to aid in subduing the malcontents.

A later instance of this union of civil and military power in the person of a chief justice occurred in 1685, when Jeffreys set out for the Western Circuit on his "campaign," "armed not only with a commission of Oyer and Terminer, but also an authority to *command the forces in chief*"[1] in the disaffected counties. Thus appointed to destroy on the battle-field as well as the judgment seat, Jeffreys was styled the "General of the West."

A more humorous instance of a lawyer in arms was Sir Edward Coke in the summer of 1617, when he donned a breast-plate and equipped for battle rode at the head of an armed company, from London to Oatlands, where Lady Hatton had secreted the lovely girl of whom she was the vexatious mother, and he the indignant father. The

[1] Roger North's expression, "to *command* the forces *in chief*," is worthy of notice, being used at a time long prior to the title "commander-in-chief." — *Vide* "Life of Lord Keeper Guildford."

story of this strange scandalous *fracas* has been told by writers of different views and tempers; but those who most disapprove Coke's violence, and those who are most inclined to see in Lady Hatton's conduct a culpable case of conjugal disobedience, are alike compelled to stay their indignation and give way to merriment as they imagine Coke's bellicose aspect, and recall the many droll circumstances that attended the storming of Lady Hatton's retreat. The outer gate was carried by the invaders without difficulty; but the doughty lawyer struck many a good blow, and smashed more than one strong door, ere he had passed all the barricades in his way, and forced a passage to the inner room, where he discovered his rebellious wife and the child of whom Jonson sung—

> "Though your either cheek discloses
> Mingled baths of milk and roses;
> Though your lips be banks of blisses,
> Where he plants and gathers kisses;
> And yourself the reason why
> Wisest men of love may die!"

Seizing this lovely girl, Sir Edward carried her from the house in his arms, placed her on horseback behind her brother, and then uttering the word "Forward!" started for his seat at State Pogis, whither he bore his prize in triumph.

Before the close of the seventeenth century, the law had formed a closer alliance with arms. At the outbreak of the civil war gentlemen of the long robe were found in each of the contending parties. Herbert and Hyde drew sword for the King; Whitelock and St. John served under the Parliament. That the lawyers were more ready to draw sword against Charles than for him is a fact which may be regarded as an indication of the legal view taken of the royal policy of those who were best qualified to answer questions of constitutional law; or it may be received as a testimony that prudent

seekers after advancement were unwilling to devote fortune and talents to a cause which could not repay them. Anyhow it is notable how greatly the fighting lawyers of the Parliament outnumbered those of the King's party.

The Inns of Court, however, contained a strong body of barristers and students, who cherished monarchical principles, and were anxious to prove their loyalty in the field. When Lord Keeper Littleton fixed his judgment-seat in the schools at Oxford, his court had little business, but a numerous bar. To relieve his profession from the obloquy of repose, at a time when men of all ranks were flying to arms, the Lord Keeper proposed that the lawyers of Oxford, during the dearth of briefs, should form themselves into a corps, and serve the king as volunteers. The suggestion was acceptable; and Littleton, by no means deficient in personal bravery, notwithstanding his moral cowardice, reported the matter to Charles, who forthwith authorized him to raise a corps of fighting lawyers. The following docket of the king's commission is extant:—"A commission granted to Edward Lord Littleton, Lo. Keeper of the Greate Seale, to raise a regiment of foot souldiers, consisting of gent. of the Inns of Court and Chauncy, and of all ministers and officers belonging to the Court of Chauncy, and their servants, and of gent. and others who will voluntarily put themselves under his command to serve his Ma^tie^ for the security of the Universitie and Cittie of Oxford. T^e^ apud Oxon. xxi. die Maij A^o^ R. R. Caroli xxi.

"per ipsm Regem."

During the short interval between the date of his commission and his death, Littleton zealously drilled his recruits, who were for the greater part drawn from the colleges. Indeed the force was less a corps of lawyers than a regiment of university men, and ought to be

compared with the present Oxford University Rifle Corps rather than with the existing "Devil's Own."

A comely gentleman and good swordsman, Sir Edward Littleton was no unsuitable chieftain for the corps, but in the August following the enrolment he was caught by a violent storm while drilling his men in Bagley Wood, and a severe cold, consequent on exposure to rain, brought about his unanticipated death in 1645.

One of the first lawyers to join the parliamentary forces was Bulstrode Whitelock, still a young man when Charles unfurled his standard at Nottingham. Followed by the tenants of his estate and a few personal friends, Whitelock accepted a captaincy in Hampden's regiment of horse, and took part in the military occupation of Oxford, where the parliamentary soldiers met with a cold reception from the gownsmen, who subsequently welcomed the royalist army with acclamations. To teach the lawyer that civil war was far from being a pleasant pastime, Prince Rupert and his men took possession of Fawley Court, Whitelock's house, near Henley, and according to the owner's *ex-parte* but most creditable account, "indulging in excess and rapine of every kind, destroyed his books, deeds, and manuscripts, cut open his bedding, carried away his coach and four horses and all his saddle-horses, killed his hounds, of which he had a very fine pack, and destroyed all his deer and winged game." The memory of this desolation of his home long rankled in Whitelock's breast, and more than once during the period twixt the commencement of the civil war and the restoration of the Stuart dynasty, he was the subject of affronts that brought vividly to his mind the perils he encountered and the losses he endured while bearing a commission in Hampden's cavalry.

Cromwell's officers were inclined to think that the country should be governed by pious soldiers; and not-

withstanding the number and influence of the lawyers who had served the republic in camp as well as at Westminster, the more zealous Puritans entertained strong prejudices against the legal profession, and were almost unanimous in holding that non-military wearers of the long-robe should be excluded from the House of Commons. Some of Whitelock's most amusing reminiscences turn upon the antagonism of the men of God to the "sons of Zeruiah," by which title lawyers were then commonly known. In the autumn of 1649 a republican soldier, who in one respect closely resembled Cardinal Beaufort, warmly urged upon the commons that they should exclude all lawyers from Parliament, and that if they could not find heart to take so decided a course, they ought at least to resolve that while lawyers sat in Parliament they should relinquish practice. Whitelock's reply was strong with reason and sarcasm. From the days of the Parliamentum Indoctum, which lawyers were forbidden to enter, till the days of his own connexion with Sir Edward Coke, Whitelock set forth the services which his profession had rendered to the legislation of the country, and pointed out the blunders into which parliament had fallen when they presumed to act without their guidance, or in opposition to the advice, of legal authorities. "As to the sarcasms," he continued, "on lawyers for not fighting, I deem that the gown does neither abate a man's courage or his wisdom, nor render him less capable of using a sword when the laws are silent. Witness the great services performed by Lieutenant-General Jones and Commissary Ireton, and many other lawyers, who putting off their gowns when the parliament required it, have served stoutly and successfully as soldiers, and have undergone almost as much and as great hardships and dangers as the honorable gentleman who so much undervalue them. With respect to the proposal for compelling lawyers to

suspend their practice while they sit in parliament, I only insist that in the act for that purpose it be provided that merchants forbear from their trading, physicians from visiting their patients, and country gentlemen from selling their corn or wool while they are members of that house."

The motion was of course withdrawn, and the maker well laughed at; but the feeling of the House is shown far less by the withdrawal of the proposal than by the fact that Whitelock felt it necessary to reply with grave and elaborate argument. The same argument was continually reappearing. Some four years later the Barebones Parliament showed their low opinion of the sons of Zeruiah, by proposing to abolish Chancery on the expiration of a month after their decision. By a resolution the Parliament actually suspended Chancery for a month; and when the bill for the total abolition of the court came to a decision, it was thrown out by the Speaker's casting vote.

The same animosity against an honorable profession burst forth at a meeting of the Council of Safety in the autumn of 1659, when a republican officer exclaimed with indecorous warmth, "It is not well that at such a time as this so great a charge as the Great Seal should be entrusted to a lawyer. More seemly were it that an office of such power and profit should be given to those who have encountered the wars and adventured their lives for the service of the commonwealth than to such as skulk from dangers and covet fees." Promptly, and with proper spirit, Lord Keeper Whitelock answered, "The gentleman who so much disparages lawyers would do well to call in mind the services performed by Ireton, Jones, Reynolds, and others of the profession during the war. As for myself I have been exposed to such perils in the service of the state, particularly in my embassy to

Sweden, as would appalled this much-speaking colonel. I desire therefore, that such reproachful language may be forborne."

Although the loyalists were less hostile to the legal profession, they resembled the puritans in thinking that soldiers were qualified to fill judicial offices. While Charles II. was making terms for his restoration, Sir John Grenville was said to have offered Monk one hundred thousand pounds per annum for ever, the office of Constable of England, the right of nominating to divers high offices under the crown, and the custody of the Great Seal. It is doubtful whether this offer was actually made, but the arrangement would at the time of the rumor have created no dissatisfaction amongst the king's friends, with the exception of Hyde and his personal adherents.

Had Monk presided in the Court of Chancery he would most probably have acquitted himself as well as Williams or Shaftesbury, and at the present date would endure comparison with any West Indian governor who has been required alternately to sit in a court of justice, and to command the troops of his island.

The story goes that a general officer of the army, on being appointed a governor of a West Indian island addressed Lord Mansfield in a voice of great concern, "What am I to do, my Lord? The governor is commander-in-chief of the troops, and must he preside in the Local Court of Chancery? I can command soldiers, but I know nothing of law." "Tut, man, decide promptly, but never give any reasons for your decisions. Your decisions may be right, but your reasons are sure to be wrong." Acting on this rule, the military Chancellor pushed on well enough; but in an evil hour, forgetting the precept, he gave his first good decision, and it was immediately appealed against. Recounting the story to

his grandson, Lord Mansfield said, "I was two or three years afterwards sitting at the Cockpit on Plantation Appeals, when there was one called from my friend and pupil the general, which the losing party had been induced to bring on account of the ludicrously absurd reasons given for the judgment, which, indeed, were so absurd that he incurred some suspicion of corruption, and there was a clamor for his recall. Upon examining it, I found that the judgment itself was perfectly sound and correct. Regretting that my advice had been forgotten, I was told that the general acquiring reputation by following it, began to suppose himself a great lawyer, and that this case brought before us was the first in which he had given his reasons, and was the first appealed against.

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## CHAPTER XII.

JOHN SOMERS, the father of Lord Chancellor Somers, deserves mention amongst lawyers of military prowess and renown. A wealthy man and a person of considerable local influence, he was in a position to aid the party that possessed his respect and good wishes. As the most successful attorney in Worcestershire, and proprietor of a landed estate that had descended to him from his ancestors, he ranked above the crowd of provincial lawyers. He was also a gentleman of fair descent. Though writers in political journals were accustomed to vilify Lord Somers for having "sprung from the dregs of the people," the Chancellor's family had for generations held place amongst the chief gentry of their county. Queen Elizabeth honored them by sleeping at "The Whiteladies"—a house close to Worcester, and standing

upon an estate granted to them at the Reformation; and a noble self-dependence had long characterized the bearers of their name and blood. The "*Somer* Islands" were discovered by an Admiral of the Somers family, who is memorable for maritime exploits and a courageous reply to King James. "I wish that as I am the first," said this persecuted admiral, "so I may be the last of sacrifices in your times. When from private appetite it is resolved that a creature shall be sacrificed, it is easy to pick up sticks enough from any thicket whither it hath strayed to make a fire to offer it with."

In the civil contest, Worcester and the best part of Worcestershire sided with the crown; but John Somers, attorney-at-law and esquire, of "The Whiteladies," Worcester, and of Stoke-Severn, raised a troop of horse for the Parliament, and as Captain of the said troop, was one of Cromwell's army. For a while he was quartered at Upton, near his estate at Stoke-Severn, much to the annoyance of the loyal clergy and proprietors of the district. Not content with arming in behalf of the rebels, he used to walk and ride about the neighborhood in his martial dress, and every Sunday he had the audacity to wear his uniform in Stoke-Severn church during divine service. The rector was an ardent Royalist; and in a series of sermons on Divine Right and Non-Resistance, he inveighed against those who dared to rebel against their anointed rulers. The parishioners, during the delivery of these tirades against their squire, alternately watched the preacher and the offender, enjoying the parson's violence, and wondering how long Captain Somers would patiently endure the abuse. As a lawyer, John Somers was reluctant to use violence; and he sent a friendly message to the clergyman requesting him to adopt a less irritating tone in the pulpit. The message only rendered the rector more furious in his denuncia-

tions of rebellion. Again and again Captain Somers renewed his entreaties that he should not be thus insulted in his own parish church. Each succeeding Sunday found the preacher more angry and abusive. There was need for bolder action, and at length the volunteer trooper hit on a novel method of silencing a clerical orator. Selecting a moment when "the enemy" was in full action, he drew a pistol from his pocket, aimed deliberately at the foe, and then, raising his hand as he pulled the trigger, sent a bullet into the sounding-board over the parson's head. The commotion that ensued was not less comical than lively. The younger women screamed and went off into hysterics; the men sprung to their feet, and on finding that no harm was done, burst into laughter. A buzz, a clattering of feet on the pavement—and the congregation left the church without a benediction. Captain Somers walked quietly to his house, after explaining to his adversary that every repetition of his insolence would produce a similar interruption, and that on each ensuing occasion for pistol practice the ball would strike a lower point. With perfect coolness the warlike attorney intimated his readiness in course of time to send a lump of lead into his opponent's head, instead of the sounding-board above it. Finding that he could not keep all the argument to himself, the worthy rector henceforth avoided political topics whenever the captain formed part of his congregation. After the Restoration, John Somers obtained a special pardon under the Great Seal, for any excesses of which he had been guilty in "the late troubles," by which gentle term the second Charles's subjects were wont to allude to the civil war and the period of their sovereign's exile.

Though Oliver St. John and Hyde can scarcely be named amongst the fighting lawyers of the seventeenth century, they rendered to their respective parties services

that entitle them to military honors. Before he determined to confine his exertions for the "good cause" to unwarlike fields, St. John busied himself as a recruiting-sergeant and drill-master. On the other hand, Hyde's devotion to his royal masters familiarized him with the perils and excitements of a soldier's existence.

After withdrawing from the University of Oxford, where he was an undergraduate of Oriel until he migrated to Pembroke, William Scroggs commanded a troop of horse, and fought bravely for the Martyr King. On the termination of the civil war he became a student of Gray's Inn, and at the Restoration he was ready to serve the Stuarts in his gown as fearlessly as in past times he had served them in a cuirass. Witty as Shaftesbury, comely as Jeffreys, and dissolute as Rochester, he rose to be that odious Chief Justice Scroggs whose name, uttered after his death by angry nurses, has roused the terror of generations of English children.

Another great lawyer of the same century, whose breast at one time burned with martial ardor, was Chief Justice Hale, who in his wild and dissipated youth conceived a desire to fight under the Prince of Orange in the Low Counties. Had young Hale resisted his affectionate advisers to the last, and taken service under the prince, it is probable that Amy Duny and Rose Cullender would not have been executed for whichcraft at Bury St. Edmunds in 1665.

As the lawyers displayed a strong sympathy with republican—or rather, constitutional—sentiments under Charles I., it is no matter for wonder that they continued to manifest the same sympathy under Cromwell, when fees and preferment rewarded the supporters of popular government. At the Restoration Charles II. found his most eminent lawyers by no means in a mood to echo the opinions of the Church with regard to the

kingly office. For a time, indeed, there was a dearth of pliant perverters of justice on the bench and in the inns, until the successes of Heneage Finch and Francis North to a certain extent demoralized the bar.

But notwithstanding all that has been said about the scarcity of royalist lawyers during the civil war and the commonwealth, it may not be supposed that under Oliver's ascendancy there were no barristers eminent in their profession, and at the same time devoted to the House of Stuart. The Inns of Court contained many gentlemen who used to nibble the toast floating at the top of the ale-cup or wine-cup, in order that they might have an excuse for muttering, as they drank, "God send this *crumb well* down." The attorneys who conducted the affairs of the cavalier gentry used to testify their loyalty in various quaint and pleasant ways. In the parchment of these old Caroline practitioners the antiquary sometimes comes upon a sign of their romantic attachment to the banished house. During the protectorate, they were compelled to engross Cromwell's hatred Christian name; but the most loyal of them forbore to write Oliver with a capital O. Of the royalist bar Sir Geoffrey Palmer,[1] on whose skirts Francis North fixed his tenacious grasp, may be regarded as a type.

On the other hand, the servile Address of the Barristers and Students of Lincoln's Inn has been too hastily

[1] In the *Examen*, Roger North says of this worthy gentleman:—"After the happy restoration of King Charles II., Sir Geoffrey Palmer was the first Attorney General, and held the place to the time of his death. He was a man of great ability in the law, and in that profession is what a lawyer should be—that is, master of, and not superior to, so as to despise the learning of his own profession. But yet his wisdom and generosity were incomparable. During all the troubles of the times, he lived quiet in the Temple, a professed and known cavalier; and no temptation of fear or profit ever shook his principle. He lived then in great business of conveyancing, and had no clerks but such as were strict cavaliers. One, I have heard, was so rigid that he could never be brought to write Oliver with a great O. And it was said that the attorney chose to purchase a manor of Charleton, because his master's name sounded in the style of it."

accepted by many writers as proof that the legal profession in their conduct to the last two of our Stuart kings, altogether sacrificed that reputation for independence and courage, which they have maintained at periods of great trial. It has been observed with an appearance of justice that, "during the reign of Charles II. the barristers became as much attached to the crown as they had formerly been to the commonwealth." This is unfair. Amongst the needy and ambitious members of the Inns of Court the royal brothers found obedient slaves; and in societies in a great degree composed of young men of fashion, with connexions at court, there was of course a strong body of barristers always ready to extol the crown, and entertain the members of the royal house with costly revels. The same was the case under Charles I. But the conduct of the young cavaliers and idlers of the inns must not make us unjust to the more staid and learned practitioners of the law. During the twenty years preceding and the five-and-twenty years following the commonwealth, the Inns of Court resounded with professions of loyalty; but in those same schools were reared the men who brought Charles I. to the scaffold, and also the men who drove his son from the country. Such men as Jeffreys, Scroggs, and North were loathed by the advocates over whom they presided; and though the crown from 1660 to 1688 unquestionably exercised a pernicious influence on the tone and morality of the bar, it was powerless to corrupt the more noble and thoughtful of the profession. Men educated to explain the laws of the land were ready to recognize the rights of the crown; but it was impossible for such men, living under the Stuarts, not to feel acutely the wrongs of the subject. Old Maynard's ready reply to William of Orange was more than a compliment; it spoke the conviction of the legal mind. And the Act of Settle-

ment, which placed the judges above the caprice of the crown, is a memorial of the precautions taken by our lawyers against a repetition of evils which, according to some writers, met their approval.

Of the lawyers who welcomed William of Orange, sword in hand, one of the most notable is William Cowper. The future Lord Chancellor was then a young barrister of the Home Circuit. He had not been called many months, and before his call he had married the fair Judith Booth, whose virtue and beauty reclaimed him from profligate habits, but not before his notorious dissipations had laid the foundation for calumnies which blackened his reputation, and disturbed his peace in after years.

On hearing that the prince was at Torbay, William Cowper and his brother Spencer (of whose adventures mention will be made hereafter), together with twenty-six other young gentlemen, armed themselves and rode in a body towards Oxford. In 1826, Spencer Cowper, recalling this expedition, gave his niece, Lady Sarah, materials for the following account of her father's arrival at the university:—"When they came near Oxford they found the city had a garrison, and heard the king's army, said to be about 20,000 men, was encamped just by, but could not learn whether those at Oxford were of the king's or prince's party. Coming upon the bridge, they found one of the arches broken down, and an officer with three files of musketeers came up to them, presented their muskets and asked who they were for. Twenty-seven of the company did not care to return an answer, fearing lead in their guts if these soldiers were of the king's side: and the gentlemen had only pistols, so must have engaged with great disadvantage, but my father seemed unconcerned, and spurring his horse forward, flung up his hat and cried, 'The Prince of Orange!'

which was answered by the soldiers with a shout, and they laid planks for them to enter the town, and they were conducted to Lord Lovelace, who kept it against the king. They stayed there three days, and then went on to meet the Prince of Orange, and came into London with him."

Instead of the hardships of war, the volunteers took part in the rejoicings that followed the prince's bloodless victory; and it was not long before William Cowper found an abundance of work, more profitable, if not more pleasant, than volunteer-soldiering.

The following story concerning Chief Justice Holt appeared in the *Examiner*, and has been reprinted in many books of *ana*. "A party of the guards was ordered from Whitehall to put down a dangerous riot which had arisen in Holborn, from the practice of kidnapping, then carried to a great extent; and at the same time an officer was despatched to inform the Chief Justice of what was doing, and to desire that he would send some of his people to attend and countenance the soldiers. "Suppose, sir," said Holt—"let me suppose the populace should not disperse on your appearance, or at your command?" "Our orders are then to fire upon them." "Then mark, sir, what I say: if there should be a man killed in consequence of such orders, and you are tried before me for murder, I will take care that you and every soldier of your party shall be hanged. Return to those who sent you, and tell them that no officer of mine shall accompany soldiers; the laws of this kingdom are not to be executed by the sword. This affair belongs to civil power, and soldiers have nothing to do here." Then ordering his tipstaves and some constables to accompany him, he hastened to the scene of tumult, and the populace, on his assurance that justice should be done on the objects of their indignation, dispersed in a

peaceable manner." This story is very ridiculous, but it points to an interesting and significant event. Of course, it is incredable that Holt said "the laws of this kingdom are not to be executed by the sword." He was too sound a constitutional lawyer to hold that military force could not be lawfully employed in quelling civil insurrection. The interesting fact is this:—On the occasion of a riot in Holborn, Holt was formally required, as the supreme conservator of the king's peace, to aid the military; and instead of converting a street-row into a massacre, he prevailed on the mob to disperse without shedding a single drop of blood. Declining to co-operate with soldiers on an unarmed multitude, he discharged the ancient function of his office with words instead of sabres—with grave counsel instead of cruel violence. Under similar circumstances Chief Justice Odo would have clad himself in mail, and crushed the rabble beneath the feet of his war-horse. At such a summons George Jeffreys, having fortified himself with a magnum of claret and a pint of strong water, would have accompanied the king's guards, and with noisy oaths would have bade them give the rascals a taste of cold steel. Wearing his judicial robes, and sustained by the majesty of the law, William III.'s Chief Justice preserved the peace without sacrificing life.

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## CHAPTER XIII.

DURING the Gordon Riots, in the year 1780, some of our lawyers were compelled to fight—and fly. There are so many reasons why insurgents should conceive a strong dislike for the law and its professors; and there are so many considerations rendering lawyers hate-

ful to the classes which supply the raw material of mobs, that the student feels no surprise when, on the outbreak of a riot, he sees the violence of the multitude directed against the entire body or particular members of the legal brotherhood. As he sneaked out of Bristol, beyond the reach of the infuriated rabble who yelled for his blood, Sir Charles Wetherell was but the last of a long line of lawyers who had been compelled to retreat, with more haste than dignity, before the madness of popular fury. Of one great jurist and advocate, more famous for legal knowledge than personal delicacy, who during the Reform agitation of '32 saved his neck by timely use of his feet, the story ran that he escaped from his pursuers under the disguise of a clean shirt.

When Lord George Gordon's indiscreet followers rose for the defense of our Protestant religion, they resolved to sweep away the lawyers, whilst they applied the besom of destruction to Romish priests. With this laudable intention they laid siege to the Temple, whither the barristers had congregated in strong force. Not only the barristers occupying chambers in the Temple, but non-resident members of both societies were assembled on King's Bench Walk, in the gardens, and in the avenues leading to the two principal gates. Householders in Lion Square and Ormond Street, in Bedford Row and Great Russell Street, left their windows to the rage of the rioters, and brought their wives, daughters, and plate-chests within the protection of their college walls.

In those days Lord Eldon was still a young man, living in Carey Street,[1] in a house that contained his business chambers as well as Mrs. Scott's drawing-room. This

[1] His first London residence was in Cursitor Street, his habitation there being a little house opposite Sloman's sponging-house. "Sloman's"—the sponging-house described in Mr. Disraeli's "Henrietta Temple" and Mr. Thackeray's "Vanity Fair"—was pulled down some eighteen months since.

was the period during which he in his old age believed himself to have endured cruel and humiliating poverty—the period when he used to run into Clare Market and buy sixpennyworths of sprats for his wife's suppers. There is no need to say that if John Scott ever bought sprats, as he described in his later days, his conduct was not justified by narrow means; and that, instead of winning success after a hard struggle against adverse fortune, he commenced the practice of his profession with more than sufficient pecuniary means, and under advantageous circumstances. Instead of waiting through long years for an income, his fee-book told a flattering tale from the date of his first circuit. His friends in Northumberland and Durham sent him briefs as soon as he was called in February, 1776; in the following year he received two hundred pounds from one client; and at the time of his altogether imaginary distress, he was the luckiest member of the junior bar. In 1780, the year when his argument in *Akroyd* v. *Smithson* made him famous, and placed him in possession of a highly lucrative practice, he was well known in Chancery, to which court he already thought of confining himself; in the King's Bench, where he deemed himself ill-treated by Lord Mansfield, who was accused of showing favor to Westminster Oxford men; and on the Northern circuit, where in that same year he was appointed Solicitor General of the Grand Court established for the trial of barristers charged with mock offenses.

When the Gordon rioters filled London with alarm, no member of the junior bar was more prosperous and popular than handsome Jack Scott; and as he walked from his house in Carey Street to the Temple, with his wife on his arm, he returned the greetings of barristers who, besides liking him for a good fellow, thought it prudent to be on good terms with a man sure to achieve

eminence. Dilatory in his early as well as his later years, Scott left his house that morning half an hour too late. Already it was known to the mob that the Templars were assembling in their college; and a cry of "The Temple—Kill the lawyers!" had been raised in Whitefriars and Essex Street. Before they reached the Middle Temple gate, Mr. and Mrs. Scott were assaulted more than once. The man who won Bessie Surtees from a host of rivals, and carried her away against the will of her parents and the wishes of his own father, was able to protect her from serious violence. But before the beautiful creature was safe within the Temple, her dress was torn, and when at length she stood in the center of a crowd of excited and admiring barristers, her head was bare, and her ringlets fell loose upon her shoulders.

Long after the subjugation of the rioters, and when Lord George Gordon's madness had come to be regarded as a jest rather than an outrage, the Templars found pleasure in telling how bravely they fought, or rather how bravely they would have fought, if they had been allowed to have their own way. Of the good stories concerning their valor, many of them are too good to be true, and some too true to be good.

Judge Burrough used to tell that, when the Gordon rioters besieged the Temple, he and a strong body of barristers, headed by a sergeant of the guards, were stationed in the Inner Temple Lane; and that, having complete confidence in the strength of their massive gate, they spoke bravely of their desire to be fighting on the other side. At length the gate was forced. The lawyers fell into confusion, and were about to beat a retreat, when the sergeant, a man of infinite humor, cried out in a magnificent voice, "Take care no gentleman fires from behind." The words struck awe into the hearts of the assailants, and caused the barristers to

laugh. The mob, who had expected neither laughter nor armed resistance, took to flight, telling all whom they met that the bloody-minded lawyers were armed to the teeth, and enjoying themselves. The Temple was saved.

The most exquisitely comical version of the incident to which Judge Burrough's narrative points, came from Lord Erskine's lips in November, 1819; when in the House of Lords, speaking upon Lord Lansdowne's motion for an inquiry into the state of the country, he condemned the conduct of the yeomanry at the "Manchester Massacre." "By an ordinary display of spirit and resolution," observed the brilliant egotist to his brother peers, who were so impressed by his complacent volubility and good-humored self-esteem, that they were for the moment ready to take him at his own valuation, "insurrection may be repressed without violating the law or the constitution. In the riots of 1780, when the mob were preparing to attack the house of Lord Mansfield, I offered to defend it with a small military force; but this offer was unluckily rejected; and afterwards, being in the Temple when the rioters were preparing to force the gate, and had fired several times, I went to the gate, opened it, and showed them a field-piece which I was prepared to discharge in case the attack was persisted in. They were daunted, fell back, and dispersed." This is a good specimen of the vain-glorious statements which Erskine frequently made under the influence of egotism, high spirits, and lawless fancy. Walter Scott had some reason for his sweeping judgment—"Tom Erskine was positively mad!"

Lord Mansfield had reason to think the Gordon rioters less manageable than Lord Erskine, after a lapse of almost forty years, supposed them to have been. An enlightened champion of religious liberty, who in parlia-

ment raised his voice for the Catholics, and even on the bench shielded an unfortunate member of the Roman Church from the injustice of the law, this great Chief Justice was an object of especial abhorrence to the miserable fanatics who styled themselves "The General Protestant Association." On Friday, June 2, when the sixty thousand rioters, headed by a half-witted nobleman, marched from St. George's Fields, over London Bridge, and through the City to Westminster, Lord Mansfield was one of the peers who were subjected to brutal insult on their way to the House of Parliament. As his carriage passed down Parliament Street he was received with yells, and the windows of the coach were broken with stones. Before the servants of the House of Lords succeeded in rescuing him from the rabble, he had been subjected to such personal violence that on taking his seat on the woolsack, as Lord Thurlow's substitute, he showed marks of indignity in his torn robes and disordered wig. When the day of national disgrace had closed, he drove from Westminster to his house without again encountering the defenders of our reformed religion.

But the mob resolved to wreak their vengeance upon him in a more signal manner. Hatred of the judge who was unanimously allowed to be the most accomplished and learned lawyer of his time, was one of the motives that inspired them to besiege the Temple, in the hope of destroying the whole accursed tribe of which he was a conspicuous chief. To sack the Temple was beyond their power, but they were able to burn the Chief Justice's house in the north-east corner of Bloomsbury Square. On the night of June 6, when the riot had been permitted to rage for four or five days, a dense mass of insurgents surrounded the mansion, and speedily accomplished the work of destruction. The attack had been

anticipated, but no adequate means had been taken for the Chief Justice's protection. Magistrates, indeed, had wished to surround the house with foot-guards; but fearing that the presence of the soldiers would increase rather than lessen the danger, Lord Mansfield requested that they should be stationed in the Church of St. George's, Bloomsbury, away from the observation of stragglers. It was thought that in case of an attack the detachment could leave their place of concealment, and drive the mob from the square. When the rioters, however, entered the square, their number was so great that the soldiers made no attempt to disperse them. After the leaders of the rout struck the front door with hammers and iron bars, the earl and the countess escaped by a postern gate from the premises, which were speedily in the hands of the rabble. The assailants were enthusiasts —not thieves. Destruction was ordered; robbery was denounced. "Death to Thieves!" was the cry. Of course the patriots were permitted to eat the contents of their enemy's larder and to drain his wine; but apart from victuals and drink they took away nothing of the judge's property. They broke mirrors, slit pictures down and across, and hurled costly furniture into the bonfires which made the gloomy square bright as daylight. One scoundrel was seen throwing a quantity of silver plate and gold coin into the flames, and as the precious metals left his hands, he thanked God that they would not be spent on masses. When the house had been thoroughly gutted and sacked it was set on fire. The loss of his library, containing books given him by Pope or annotated by Bolingbroke, and manuscripts by his own hand, was the part of his misfortune which Lord Mansfield felt most acutely.

Whilst flames were destroying Lord Mansfield's house in Bloomsbury Square, Lord Thurlow was expecting a

visit from the mob in Great Ormond Street. A guard of soldiers had been assigned for his protection; and instead of concealing them in an adjacent church, he not only received them within his doors, but ostentatiously exhibited them at his windows. Indeed, by cleverly marching and countermarching the redcoats past the windows that looked into the thoroughfare, he created an impression on beholders that he was surrounded by a strong force. His house was spared; and when the danger had passed, it was stated that his good fortune was due to this military stratagem. But it is more probable that the rioters passed him over, because he had never offended their particular prejudices.

Our great lawyers have never been slow to extol their own courage and military prowess. In the garrulous reminiscences of his last years, when port wine had warmed his heart and relaxed his stiffened joints, Lord Eldon was wont to astonish the old attorneys and placemen who surrounded his table with stories of his valiant conduct in repelling the Corn Rioters who stormed his house in Bedford Square. When British legislators enacted the disastrous Corn Bill, which produced a rare harvest of woe and crime in the following generation, few public men were more unpopular than Lord Eldon. He was not especially accountable for the measure; but he was a resolute and outspoken leader of the party that originated and passed it, and he had rendered himself unpopular by resisting a petition that counsel should be allowed to argue against the bill in behalf of the City of London.

On March 6, 1815, his house was attacked at a late hour in the evening. The soldiers on duty at the British Museum were called to the Chancellor's protection, and they entered the Bedford Square mansion by a back door, just as the rioters carried the front entrance. The mili

tary and the foremost insurgents met in the hall; and as they exchanged glances, Lord Eldon exclaimed to an imaginary force in the background, "Guards in the rear, reserve your fire." According to the recollection of the aged peer, the mob on hearing these words fell back; whereupon, availing himseif of their confusion, he sprang across the threshold, and with his own hands captured two of the retiring enemy. "If you don't mind what you are about, lads," exclaimed the Chancellor, shaking the prisoners when he had hauled them into his house, "you will all come to be hanged." "Perhaps so, old chap," answered one of the rascals, with admirable coolness; "but I think it looks *now* as if you would be hanged first." In order that this menace might not be fulfilled, Lord Eldon, together with the women of his family, retreated by a back way to the British Museum, under the protection of a strong military escort. Beyond tearing up iron rails and breaking windows, the mob did little harm; and when the Duke of Wellington, on the following day, called in Bedford Square, the Chancellor proclaimed the success of his stratagem, and enjoyed the great soldier's courteous answer—"I am glad, my lord, that you have taken to act the general, only when I have left the field; for you certainly would have beaten me in that career."

In his later years Erskine used to recall his military experiences with much humor and some artistic embellishments. Having served in the navy as midshipman and *acting* lieutenant, he obtained an ensign's commission in the First Foot, and did regimental duty in English garrison towns and at Minorca. As an ensign he married the pretty girl to whom he was a loving and loyal husband; and as an ensign stationed at Minorca, he was enthusiastic in his sympathy for General Mostyn, when that Governor was trounced in an action for false

imprisonment and other illegal treatment brought against him in the Common Pleas by Fabrigas. Carried away by his anger with his jury who had returned a verdict for Fabrigas with damages of three thousand pounds, the ensign, whom British juries in the course of a few years raised to opulence and fame, actually wrote a lampoon on trial by a jury.

In his old age he said, "I remember well the news coming out to Malta of the verdict in the case of Fabrigas and Mostyn. I was then in the garrison, and we all took the side of our worthy and popular governor, whom we thought very ill used; and we drank that day at the mess a hearty damnation to the jury who brought in that verdict. Getting warm with indignation and wine, I lampooned the jury after dinner in some extempore verses, little thinking that I should ever have anything to say to a jury myself. I forget exactly how they ran, but the idea was that the ghost of Great Alfred came from the abodes of the blest to survey the results of the institutions he had founded in life; and I supposed him present at the verdict of the jury against Governor Mostyn. The concluding verses were these:—

> "The monarch's pale face was with blushes suffused
> To observe right and wrong by twelve villains confused,
> And kicking them all in the heat of his fury,
> Cried 'Cursed be the day I invented a jury!'"

In his moments of proudest triumph, Erskine selected for his heraldic device the motto "Trial by Jury."

Tom Erskine used to wear his lieutenant's uniform in London society, after he had decided to quit the army and enter the law. Until he had actually sold his lieutenant's commission, the uniform of the "Royals," was his ordinary costume at dinner-parties and in theaters. During the Easter and Trinity terms of 1775 he ate his dinners at Lincoln's Inn, amongst students who beheld with amusement his scarlet regimentals under his black

gown. Gossip does not say whether he wore his military clothes in the dinning-hall at Trinity College, Cambridge, where he kept terms during his *educational* career at Lincoln's Inn.

At the close of the last century, when all ranks of the nation armed in order that they might drive the Frenchmen into the sea if the First Napoleon should venture to throw a hostile force on our shores, the lawyers of London raised three separate volunteer corps. Instead of combining their numbers the Inns of Court established two regiments—the B.I.C.A., or Bloomsbury and Inns of Court Association, and the Temple Corps; the B.I.C.A. was called the Lincoln's Inn Volunteers; and when the Temple Corps received from Sheridan the *sobriquet* of "The Devil's Own," the mob christened the Lincoln's Inn men "The Devil's Invincibles." Of these two bodies the Temple Corps was the more favorably known. It was confined to members of the Bench and Bar, and legal dignitaries swelled its musters. Of this corps Erskine was colonel; and speaking of him, Lord Campbell says:—"I did once, and only once, see him putting his men through their manœuvres, on a summer's evening in the Temple Gardens, and I well recollect that he gave the word of command from a paper which he held before him, and in which I conjectured that his 'instructions' were written out as in a brief."[1]

An active rivalry and some ill-feeling existed between the two corps. In the estimation of the public and also of the legal profession, the Lincoln's Inn corps was the inferior regiment. "The Devil's Own" comprised a larger number of judges and distinguished leaders of the

[1] In another note the biographer of "The Chancellors" says—"Of the other two most noted volunteer commanders in the metropolis, one had been a miller, and went by the name of Marshal *Sacks;* and the other actually was a pastrycook in the City, famous for selling good turtle-soup, and he was dubbed Marshal Tureen."

bar, and declined to enroll any student or lawyer who was not a member of an Inn of Court. On the other hand, the "Invincibles" were glad to increase their number with recruits drawn from the inferior rank of the profession. The admission of attorneys subjected the corps to jokes equally humorous and pungent. It was said that when Lieutenant-Colonel Cox, the Master in Chancery, who commanded the corps, gave the word "Charge," two-thirds of his rank and file took out their note-books and wrote down 6*s*. 8*d*. Notwithstanding the ungenerous ridicule cast upon the B.I.C.A., several eminent lawyers served in its ranks. John Scott was on its roll after his elevation to the peerage, and Attorney General Law (subsequently Lord Ellenborough) was retained for many months in the awkward squad because he failed to satisfy the requirements of the drill-sergeant. "During the long war," Eldon used to say, "I became one of the Lincoln's Inn volunteers, Lord Ellenborough at the same time being one of that corps. It happened, unfortunately for the military character of both of us, that we were turned out of the awkward squadron for awkwardness. I think Ellenborough was more awkward than I was, but others thought it was difficult to determine which of us was the worst." This expulsion certainly did not occur at an early date of the regiment's career, and it may be presumed that the ejectment never actually occurred; but that Eldon and Ellenborough were irregular attendants and awkward soldiers on parade can be easily believed by the present writer, who without arrogance may claim for himself the honor of being the most inefficient private in the existing Inns of Court corps.

"I think," said Lord Eldon, when he was an old man, "the finest sight I ever beheld was the great review in Hyde Park before George III. The king in passing ad-

dressed Tom Erskine, who was colonel, asking him the name of his corps. He answered, 'The Devil's Own.' The Lincoln's Inn Volunteers always went by the name of 'The Devil's Invincibles.'" The king's courtesy to the Templars filled the hearts of the Invincibles with jealousy and wrath; for they received no similar attention.

A letter written by Scott soon after the review, shows that in his old age he faithfully recalled the emotions roused by the spectacle. "We had a most glorious exhibition," he wrote June 6th, 1799, "here on the king's birthday, in the review of the volunteer corps, which furnished much the most magnificent spectacle I have ever seen. As a non-effective in an awkward squadron, I had the modesty not to show myself in arms, though I have military character enough to attend the drill occasionally in a more private scene. Your friend, Major Sir William Scott's corps, not having yet been bold enough to attempt the strong measure of firing, were also absent."

The corps that had not attempted the strong measure of firing was a corps of doctors and proctors, who, notwithstanding their strong reasons for approving any continental war in which England was a partner, became warlike under the dread of invasion. This regiment of civilians, the third corps composed of metropolitan lawyers, was under the command of Lord Eldon's elder brother, Sir William Scott, better known to ordinary readers of the present day as Lord Stowell.

Before the volunteer movement of that period died out, the Lincoln's Inn corps was disbanded, when those of its old members who were Inns of Court men and wished to continue their martial exercises, joined "The Devil's Own." The present compiler's authority for this statement is Mr. Espinasse, who says, "The hats of

the Lincoln's Inn corps were round, surmounted with black bearskin across the crown. A tall red and white feather composed of the hackles of a cock, rose in the front of it, and presented a martial and grenadier-like appearance. But all that military gayety had no charms for Stebbing: he could not be reconciled to a round, and pined for his pinch; he never on coming to the parade omitted his malediction against the bad taste of Sir William Grant, and the martial ornament with which he had chosen to furnish his head. His regrets became insupportable. Notwithstanding the talents of our commanding officer, and the rank of many of the privates, our military character was not splendid, and we merged into the Law Association, commanded by Lord Erskine."

Though Erskine was a poor commander, he had just views with regard to the volunteer movement. When the government lawyers maintained that the volunteers had bound themselves to the service till the end of the war, Erskine gave a directly opposite opinion. "If," he said, "the term *volunteer* is supposed to be satisfied by the original spontaneousness of the enrollment, leaving him afterwards bound, then every enlisted soldier must equally be considered to be a volunteer, and, with the difference of receiving money, and the local extent of service excepted, would be on equal footing both as to merit and independence." After much discussion, the question was brought into the King's Bench, when Lord Ellenborough (of the B.I.C.A.) had risen to be chief of the court. Attorney General Perceval appeared for the government, and Erskine replied. The unanimous decision of the judges confirmed the opinions given by the Colonel of the Devil's Own, and settled the question in favor of those many volunteers who having felt war's alarms were now bent upon confining their energies to peaceful pursuits.

That English lawyers have not, in aught that concerns their military reputation, dĕgenerated since the days of Erskine, is shown by the enthusiasm with which they prepared for bloody contest in April, 1848, and by the resolution with which they have maintained the efficiency and character of their Volunteer Rifle Corps, since the death of that good soldier and courteous gentleman, Lieutenant-Colonel Brewster, under whose tuition and command the regiment renewed the *éclat* of Erskine's "Templars."

In the first rank of our present legal dignitaries, there is at least one eminent man whose personal career is another proof that wearers of the sword may aspire to the honors of the gown. Like Erskine, Lord Chelmsford made his first venture in the fighting trade. As a midshipman on board the *Cambrian*, Frederick Thesiger assisted in the second bombardment of Copenhagen; and having both as advocate and wit, equalled Thomas Erskine's splendid renown, he, like Erskine, won the seals.

# III.

# RIDING AND DRIVING.

## CHAPTER XIV.

ALTHOUGH the Inns of Court at the present time number a goodly array of gentlemen who habitually follow hounds and are honorably known in the best hunting countries, equestrian adroitness is by no means a universal accomplishment of wearers of the long robe; but from the days of Odo till the general adoption of carriages, the lawyer was invariably a skillful horseman. He rode in armor over hard-fought fields, and in the discharge of the peaceful duties of his profession he was constantly in the saddle. Whilst the courts followed the king's person, suitors and their advisers learned in the law could win neither cause nor fee without riding for it. In the royal train came the judges, superbly mounted and richly attired, so that in their progress from city to city they enhanced the pomp and splendor of their sovereign; and in the train of the judges came the learned sergeants and counsel, the registrars and clerks, reining mettlesome steeds and equipped in a style that accorded with the gorgeous magnificence of the entire cavalcade. For many a day the judges were powerful ecclesiastics, who found their chief pastime in the sports of the field; and ancient records tell how these chieftains of the Church lavished money on their

stables. In those days of picturesque chivalry, the horse, hound, and hawk were the fast companions of every man whose purse was full, and whose place, by birth or deed, was fixed amongst the "gentle of the land." And being gentle by office, culture, descent, the early lawyers would have been horsemen, even if they had not been required to ride whithersoever it might please the lord of the realm to hold his court.

When the courts were permanently fixed at Westminster, the lawyer was less frequently compelled to mount horse in behalf of his clients; but the reform wrought less change in his habits than readers might suppose. By boat he could pass through the Temple to Westminster, where the Chancellor and common law judges during term dispensed justice in the great, noisy, dirty, splendid hall—splendid with banners and the bright dresses of judges, sergeants, spectators: noisy with the hum of a dense multitude, with the barbarous language of the law, and with the low tones of the judges sitting in open courts, within sight of each other. But magnates of the bar, and even sad apprentices of the law, preferred the saddle to the boat, and were wont to make the daily journey from their inns to Westminster on horseback in the train of the judge before whom they practiced. But though he could reach the courts at Westminster without using spur or bit, the lawyer still journeyed about the country on circuit; and on circuit the judges and the whole profession maintained the same pomp and gaudy splendor which had characterized their progresses when they were part of the sovereign's retinue. For safety, as well as for theatrical effect, they rode *en masse*, attended by the sheriff's armed escort, and themselves ready to defend the majesty of law against the lawless bands who might attack them on their way through unreclaimed forests, or over desolate

heaths. The bright pageantry and all the pompous circumstances of feudal life surrounded their march. When they moved, crimson and gold, burnished steel and floating ancient gladdened the eye; at the same time the ear was addressed by the blare of trumpets, the rattle of armor, the tramp of iron feet, the neighing of horses, and the joyous hum of riders. Such were the splendor and glory of circuit under Plantagenets!

By degrees these judicial progresses lost much of their pristine gorgeousness; but in the sixteenth century Wolsey, with a taste for imperial display which it is absurd to account for by a sneering reference to his arrogance and personal vanity, delighted the vulgar and incensed the rich by the unprecedented costliness and grandeur of the pageants, with which he illustrated his tenure of the seals.

In the reign of Elizabeth, Wolsey's state was imperfectly reproduced by Hatton on May 3, 1587, when he rode to Westminster Hall, after entertaining the judges and nobility in Ely Place. Mounted on a richly-caparisoned palfrey, he rode between Lord Treasurer Burghley and the Earl of Leicester,—a long train of mounted noblemen and gentlemen, judges in their robes, and knights ready for the field, following him in order, two and two.

Francis Bacon's progress from Gray's Inn to Westminster (May 7, 1617) has been described by many writers who, however widely they differ in estimating his moral worth, concur in celebrating the brilliance and completeness of the new Lord Keeper's pageant.

Bacon's successor dispensed with the ancient ceremonial of a mounted procession when he opened the courts in his character of Lord Keeper. Of humble extraction, John Williams had not in his youth acquired the arts of the *manège;* as an ecclesiastic, who had forced

his way into Chancery against the judgment and interests of all regularly educated lawyers, he was very unpopular with the profession over whom he was about to preside; as an upstart he endured the scorn of the nobility. Doubtful whether he could sit securely in a saddle, and certain that neither the lawyers nor the aristocracy would care to ride in his train, he prudently resolved to avoid the discomfort and perils of the customary procession. He decided on walking to Westminster Hall—not a long walk, as he lived in the Deanery. In obedience to his summons, the judges assembled at the Deanery, followed the new Lord Keeper to the Abbey, knelt behind him in Henry VII.'s Chapel, whilst he prayed for sudden enlightenment about Chancery law and practice, and finally attended him on foot to the adjacent Hall, where he repaid their reluctant courtesy by lecturing them on the corruption and infamous usages of their profession.

Amongst the legal processions of James I.'s reign, mention should be made of the grand array of lawyers and knights who attended Sir Henry Montague to Westminster on November 14, 1616, on his elevation to the chieftancy of the King's Bench. "First," says Dugdale, "went on foot the young gentlemen of the Inner Temple; after them barristers according to their seniority; next, the officers of the King's Bench; then the said Chief Justice himself on horseback, in his robes; the Earl of Huntingdon on his right hand, and the Lord Willoughby, of Eresby, on his left; with above fifty knights and gentlemen of quality following." Dugdale's description of this pageant is the more interesting because it refers to an obsolete custom. The Chancellor's processions are still retained in the annual pomp with which the courts are opened after the long vacation; but since Lord Tenterden was attended to the House of Lords, in 1827, by a strong muster of the bar, the streets of London have

not been blocked by any demonstration in honor of a Chief Justice.

In former times, the justices of the King's Bench court, making a state progress to Westminster, were accustomed to ride upon mules, and not on horses. The mule, doubtless, was first employed in King's Bench processions by an ecclesiastical Chief Justice; and the later clerical judges not only rode the same beast, but fixed the custom which lay judges were long content to maintain. Dugdale, in the 'Origines Juridicales,' says: "It is reported that John Whiddon, a justice of this court, was the first of the judges who rode to Westminster Hall on a horse or gelding, for before that time they rode on mules."

As the use of carriages grew more general, equestrian adroitness became less common amongst lawyers. Instead of riding their circuits, the judges began to travel from town to town in ponderous coaches, drawn by six or eight horses. Ere long the use of the saddle was thought inconsistent with the dignity of a judge entering a provincial capital to open the assizes; and the king's justice, who in accordance with ancient usage rode into a cathedral town, sitting on his horse, by the side of the sheriff, found himself the object of animadversions not more friendly than those that were recently showered by influential journals on a well-known judge who provoked their hostile criticism by traveling from his suburban villa to Westminster Hall upon the knife-board of an omnibus.

During the civil war and Commonwealth the ancient equestrian processions of lawyers through London were discontinued; and though practicing barristers continued to ride circuit, a class of lawyers arose who were entirely unskilled in the *manège*. At the Restoration there were judges, registrars, chamber-barristers, and London attor-

neys, who could not have galloped over Hampstead Heath without humiliating accident. Amongst the ludicrous incidents of Charles II.'s coronation was the discomfiture of an eminent lawyer, who, having joined the royal cavalcade on a skittish charger, was thrown to the ground in the presence of courtiers and mob. "Thus did the day end," records Samuel Pepys, in his "Coronation Notes," "with joy everywhere; and blessed be God, I have not heard of any mischance to anybody through it all, but only to Sergeant Glynne, whose horse fell upon him yesterday, and is like to kill him, which people do please themselves to see how just God is to punish the rogue at such a time as this, he being now one of the king's sergeants, and rode in the cavalcade with Maynard, to whom people wish the same fortune." Nothing is more amusing in Pepys's Diary than the rapid growth of his loyalty. The difference of his tone on politics between the opening of 1660 and Charles's coronation in 1661 is characteristic and laughable; but the young Admiralty clerk does not often display such an intolerant and vindictive temper as he exhibits in the paragraph just quoted. In the days of the Republic, Glyn was a republican: and when royalty once more came into fashion, he adapted himself to new circumstances with a prudent versatility that characterized the lawyers almost as generally as the churchmen of the period. Having acted as Chief Justice of the upper bench under the Protectorate, he was knighted and made king's sergeant by Charles II., and held high places amongst leading advocates till his death in 1666. But his enemies never ceased to twit him with his tergiversation, and also with the receipt of royal favors—a fact far more painful to his rivals than the political perfidy with which they charged him. Butler hit him in the oft-quoted couplet—

> "Did not the learned Glyn and Maynard
> To make good subjects traitors strain hard?"

Though the Londoners saw in Glyn's besmeared robes a proof of God's displeasure with Cromwellian supporters, and therefore prayed that Maynard might be humiliated in like manner, the latter lawyer kept his place in the cavalcade without mishap; and subsequently, having out-lived Charles II. and seen James's flight, welcomed William of Orange with a flash of epigrammatic wit.

The Restoration saw a revival of the periodic processions of mounted lawyers. On October 23, 1660, Pepys made entry in his Diary:—"In my way thither I met the Lord Chancellor and all the judges riding on horseback, and going to Westminster Hall, it being the first day of term." Aubrey says the custom was dropped on the death of Sir Robert Hyde, in 1665. For several years the inexpert horsemen amongst the judges and leaders of the law ceased to dread the first day of term, as a time when they would certainly part with some of their skin, and might lose their lives. But in 1673 Shaftesbury's cruel revival of the equestrian pomp[1] covered poor Judge Twisden with mud and derision.

[1] "His lordship," says Roger North in the *Examen*, "had an early fancy, or rather freak, the first day of the term (when all the officers of the law, king's counsel, and judges, used to wait upon the Great Seal to Westminster) to make his procession on horseback, as in old time the way was, when coaches were not so rife. And, accordingly, the judges, &c., were spoken to, to get horses, as they and all the rest did, by borrowing and hiring, and so equipped themselves with black foot-cloths, in the best manner they could: and divers of the nobility, as usual, in compliment and honor to a new Lord Chancellor, attended also in their equipments. Upon notice in town of this calvacade, all the show company took their places at windows and balconies, with the Foot Guard in the streets, to partake of the fine sight; and, being once well settled for the march, it moved, as the design was, statelily along. But when they came to straights and interruptions, for want of gravity in the beasts, and too much in the riders, there happened some curvetting, which made no little disorder. Judge Twisden, to his great affright and the consternation of his grave brethren, was laid along in the dirt: but all, at length, arrived safe, without loss of life or limb in the service. This accident was enough to divert the like frolic for the future, and the very next term after, they fell to their coaches as before. I do not mention this as any evil in itself, but only as a levity and an ill-judged action—for so it appeared to be in respect to the perpetual flux of solemn customs and forms that will happen in the in the succession of ages, not reducible back to antiquity nor needing so to be; which makes usages

Having thus disappeared with a practical joke, there is no ground for fear that the Chancellor's cavalcade will be revived.

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## CHAPTER XXV.

OF Caroline lawyers on horseback biography has preserved many other pictures, pleasant or keenly comic. Of Littleton's ride from London to York mention has been already made. The son of a judge, who sat in the Court of King's Bench, Whitelock, enjoyed horse exercise and the society of barristers on circuit, before he was himself called to the bar. Whilst he was still a Temple student, at a time long prior to the slaughter of his dogs and the removal of his saddle-horses by Prince Rupert, "according to the leave he had from his father, and by his means from the several judges, he rode all the circuits of England to acquaint himself with his native country, and the memorable things therein." In like manner Edward Hyde, favorably introduced to the bar by his uncle, Sir Nicholas Hyde, Chief Justice of the King's Bench, rode circuit before he could hold a brief. In the summer of 1628 he acted as his uncle's marshal on the Norfolk Circuit, and had the misfortune to sicken of the small-pox at Cambridge whilst the trials were going forward. In those days the pedestrians of the Inns of Court, instead of climbing Alpine mountains, used to fatigue themselves with long marches in the wake of the mounted circuiteers. Maynard, in his

that are most fitting in one time appear ridiculous in another. As here, the setting grave men, used only to coaches, upon the *manège* on horseback, only for the vanity of show, to make men wonder and children sport, with hazard to most, mischief to some, and terror to all, was very impertinent and must end, as it did, *en ridicule*."

younger days, was a notable walker, and more than once went the Western Circuit on foot.

In the seventeenth century, barristers on circuit were called circuiteers; and it was usual to speak of them as circuiteering, when they were traveling from assize town to assize town. Of life upon the Northern, Norfolk, and Western Circuits, in the time of Charles II., Roger North's biography of his brother, Lord Guildford, contains some admirable and suggestive pictures. "From Newcastle," says Roger, throwing much light on the perils which surrounded the bar on their circuiteering journeys in olden time, "his lordship's route lay to Carlisle. The Northumberland sheriff gave us all arms; that is, a dagger, knife, pen-knife, and fork, altogether. And because the *hideous* road along the Tyne, for the many and sharp turnings, and perpetual precipices, was for a coach not sustained by main force impassable, his lordship was forced to take horse, and to ride most part of the way to Hexham. . . . Here his lordship saw the true image of a Border country. The tenants of the several manors are bound to guard the judges through their precinct; and out of it they would not go, no, not an inch, to save the souls of them. They were a comical sort of people, riding upon *nags*, as they call their small horses, with long beards, cloaks, and long broadswords, with basket hilts, hanging in broad belts, that their legs and swords almost touched the ground; and every one, in his turn, with his short cloak and other equipage, came up cheek by jowl, and talked with my lord judge. His lordship was very well pleased with their discourse, for they were great antiquarians in their bounds."

Those who have visited, or are familiar with the black country of Northumbria, will relish this piece of local description. The country which appeared so *hideous* to the biographer may be extolled for picturesque grandeur,

and is, in its particular way, as beautiful as any district of England. The smoke of a thousand furnaces obscures its loveliness in these later days; but when Judge North rode from Newcastle to Hexham, the air was not less pure than bracing; and though carboniferous strata gave them a dark tinge, the rapid waters of the Tyne above Newcastle were clear as crystal.

There is reason to believe that the gentlemen of the Northern Circuit not unfrequently traveled the Border country in liquor as well as in arms. A prodigious quantity of wine was drunk at circuit-dinners; and the lawyers, who on rising from table found themselves compelled to hasten onwards to the "next town," not seldom spurred across country in a state of perious intoxication. In his younger days, Francis North nearly lost his chance of the Seals on a drunken ride from Colchester.

In the concluding years of his career another story was steadily told and retold, with countless variations, of Francis North, whose face grew scarlet with rage whenever an allusion was made to it in his presence. It concerned neither horse nor saddle; but as it represented the grave Lord Keeper astride a noble and marvelous beast, it claims insertion in this chapter. Lord Keeper Guildford had held the seals for something less than two years, when his opponents at court were flattering themselves that they would soon thrust him from the Marble Chair, and confer his office on one of their own set. Already Jeffreys was mentioned at Whitehall and in the Inns as the man who would certainly supersede him; and so long as it would effect the downfall of mean-spirited Guildford, there were many who wished success to the handsome, witty, overbearing, and equally unscrupulous Chief Justice of the King's Bench. To gain their purpose, Jeffreys, and the clique who were bent on bringing about

the Lord Keeper's dismissal, strove to lower him in the estimation of court and country by covering him with ridicule. Every week produced a new story to his discredit. Lampoon and pasquin were aimed at him from Little Britain and the Row; and young gallants of the Temple won a welcome to the king's palace by merry lies about the unpopular lawyer.

Affairs were in this state, and the Lord Keeper was fretting and fuming about the infamous machinations of his enemies, when the town was greatly excited by the arrival of the first rhinoceros that reached the shores of England. The beast was to Charles II.'s London all and more than all that the hippopotamus was to our own town on first coming to Regent's Park. Ladies raved, *savants* lectured, actors sung, wits jested about the wondrous stranger. The creature was a female, and received the adoration of masculine poets. The wildest fabrications were uttered about its country, habits, accomplishments. It was very swift of foot; it could fly; it could sing; it was in communication with the unseen world, and could foretell future events. No one questioned its identity with *the* unicorn of heraldic science. On October 22, 1684, John Evelyn, Fellow of the Royal Society, wrote in his diary: "I went with Sir William Godolphin to see the rhinoceros *or* unicorn, being the first that I suppose was ever brought over into England. She belonged to some East India merchants, and was sold (as I remember) for above £2,000. At the same time I went to see a crocodile, brought from some of the West India Islands, resembling the Egyptian crocodile.

The importer of the rhinoceros was a Turkey merchant and personal friend of Sir Dudley North, who was also a merchant, trading principally with the ports of the Levant. At Dudley's invitation the Lord Keeper hurried into the City to get an early peep at the rhinoceros, and

drink a glass of wine with its spirited importer. With characteristic fuss he told several persons whither he was bound, exaggerating the virtues of the strange beast, and glorifying his brother Dudley and all other Turkey merchants who made money and loved the king. The news quickly spread. Lord Chancellors now-a-days can move from Hyde Park Corner to the Mansion House without a mob at their heels; but in the lounging, gaping, gossiping, seventeenth century, a Lord Mayor could not drive through the town by daylight without being an object of attention. At Whitehall malicious humor made the most of the Lord Keeper's excursion. Before he set eyes on the wondrous creature, maids of honor, and maids of no honor, pages and gentlemen of the privy chamber, were running to and fro with the astounding news that the Lord Keeper had been riding the rhinoceros about the City. Was such indecorum ever witnessed in past time? Was the Lord Keeper mad? What would the king say? On the following day the guardian of the king's conscience was dining in his own house, when a bevy of noblemen and noisy courtiers called to inquire how he felt after his ride.

The Lord Keeper's biographer observes—"And soon after dinner some lords and others came to his lordship to know the truth of himself; for the setters of the lie affirmed it positively, as of their own knowledge. That did not give his lordship much disturbance, for he expected no better from his adversaries; but that his friends, intelligent persons, who must know him to be far from guilty of any childish levity, should believe it, was what roiled him extremely, and much more, when they had the face to come to him to know if it were true. I never saw him in such a rage, and to lay about him with affronts (which he keenly bestowed upon the minor courtiers that came on the errand) as then; for he sent

them away with fleas in their ear. And he was seriously angry with his own brother, Sir Dudley North, because he did not contradict the lie in sudden and direct terms, but laughed, as taking the question put to him for a banter, till, by iterations, he was brought to it. For some lords came, and because they seemed to attribute somewhat to the avowed positiveness of the reporters, he rather chose to send for his brother to attest than to impose his bare denial. And so it passed; and the noble earl, with Jeffries, and others of that crew, made merry and never blushed at the lie of their own making, but valued themselves upon it as a very good jest."

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## CHAPTER XVI.

THROUGHOUT the eighteenth century judges were said to "ride their circuits," although they usually traveled in their private coaches; and even at the present day, when it is a solecism to apply the word "riding" to a person who is taking carriage exercise, it is not unusual to speak of judges as "riding their rounds." Lord King, whilst Chief Justice of the Common Pleas, rode in turn each of the English Circuits; whereas it had previously been the custom[1]—but by no means the invariable custom—for a judge to confine his official journeys to one circuit.

Railway locomotion is a great aid, as well as convenience, to young barristers struggling into practice. In

[1] This custom had been by no means so invariable as Lord Campbell supposed when he wrote, "Lord Chief Justice King went as judge of assize twice a year, and he broke through the *old* custom for a judge to continue to 'ride the same circuit.'" Before the Revolution, judges very commonly changed their circuits. Francis North acted judicially on more than one circuit. The same also was the case with Jeffreys, Hale, and other well-known judges.

the days just prior to the introduction of iron roads, counsel were forbidden by etiquette to use the stage-coaches. It was thought that the dignity of the bar would be diminished if Mr. Briefless took his chance with the common herd of travelers; and sticklers for the purity and independence of the robe gravely argued that the honor of the English bar would run risk of defilement if an advocate, sitting in the same coach with attorneys and suitors, or important witnesses, entered into conversation with them, and exerted himself to maintain the sociable intercourse common with travelers by stage-coach. If barristers on circuit decided not to ride in the saddle, they were required to travel in chaises, or to tramp. They might walk the round, or journey in the luxurious ease of their private carriages, or pass from town to town in a hired vehicle; but no wearer of the long robe could enter an assize town in a public conveyance without incurring an indictment for misdemeanor before the high court of the circuit, empowered to punish circuiteers for offenses against professional etiquette.

Charles Abbott, Lord Tenterden, never mounted a horse in the whole course of his life. In his old age, on being advised to take horse-exercise for the benefit of his declining health, he replied, calling Francis North to mind, "that he should certainly fall off a horse like an ill-balanced sack of corn, as he had never crossed a horse any more than a rhinoceros, and that he had become too stiff and feeble to begin a course of cavaliering. My father," he added, "was too poor to keep a horse, and I was too proud ever to earn sixpence by holding the horse of another." On joining the Oxford Circuit, in 1796, he started a horse and gig, in which vehicle he drove circuit. About two years after joining the Oxford round he nearly lost his life, near Monmouth, from a severe fall from his gig. As he had already taken much of the

circuit business, his brother-circuiteers regretted that he did not break his neck instead of his leg.

Of course, barristers might travel together in one coach; and it was usual for circuiteers to form themselves into parties, sharing the heavy cost of "posting." But even when a barrister found himself one of an agreeable party, "posting" was a disagreeable as well as an expensive process. The sharers of a chaise could not journey a stage without consulting the wishes of the entire party, and often those wishes were at variance. One man would like to sleep another night in a town, waiting for a last chance of business, or a last kiss from a provincial coquette; another would be anxious to reach the next town, where he was engaged to appear in a heavy cause that required days of consultation and preparation; a third would propose an excursion to the house of a county magnate who had asked them to dinner; a fourth would mention the charms of a trout-stream, and suggest a digression from the turnpike for the sake of a day's fishing.

Barristers posting through the country saw far too much of each other. Bickerings and feuds arose;[1] and

[1] The amusing author of "Law and Lawyers," in the following terms, draws attention to a squabble which took place in a coach between Mr. Justice Gould and Mr. Baron Hotham: "Mr. Cradock mentions having had, while acting as sheriff in the room of a friend, to receive at Leicester Mr. Justice Gould and Mr. Baron Hotham. As soon as he was seated with them in the coach, Mr. Justice Gould said to him, 'We set out so early from Derby in the morning that we did not receive any letters or public accounts—has any news arrived at Lincoln from America?' 'None that is good, I fear, my lord; there seems to have been some disaster in the expedition to the Chesapeak.' 'Has there?' exclaimed the judge, hastily; 'that is exactly what I feared and expected.' 'And pray,' cried Baron Hotham, warmly, 'why did your lordship particularly fear and expect some disaster to the Chesapeak? Was it because my brother is the leading admiral on that station?' 'Upon my heart,' replied Mr. Justice Gould, 'that circumstance never occurred to me, or I should not have so expressed myself.' Mr. Baron Hotham, however, did not appear at all satisfied, and the journey to Leicester was very uncomfortable in consequence. When they arrived at the judge's lodgings, the under-sheriff whispered to Mr. Cradock, 'For Heaven's sake, what has been the matter? I rode close to the side of the window

sometimes the "sad apprentices" having ordered the horses to stop, exchanged shots at the half-way house of a long posting-stage. Greatly conducive to these petty squabbles was the irksome slowness of traveling. Of course the lawyers in good practice worked at their papers while the posters cantered up hill and down dale at the average rate of eight or nine miles per hour, but briefless juniors, unless they were rare and most exceptional impostors, could not through a long day's drive feign earnest application to the statement of dummy briefs. Usually they shortened the hours with cards or dice; and where four men posted together in a double-seated coach, they would play whist on a table made by a plank fitted into the windows of the carriage. This custom gave rise to a painful scandal concerning a barrister, who, after winning high honors in his profession, is still alive.

Many years since the lawyer lost an aged aunt, whose will required her body to be interred in a distant part of the country. Like a dutiful nephew, and in a manner becoming his aunt's executor, the young barrister, together with other gentlemen, closely connected with the deceased lady by blood or business, journeyed from London to the place of sepulture. The hearse containing the embalmed body had been sent forward, and the mourners followed it at an interval of a few days' journey. The first day was very tedious; and as several days would follow it ere the place of interment could be reached, the nephew on the second morning of the dolorous expedition proposed to his companions in grief that they should have a rubber. He had cards in his pocket,

that was open, in order to prevent the altercation being heard, but this was impossible.' On this, Mr. Cradock followed the judges into their lodgings, and declared to them that he had never felt so uneasy in his life, as he had been the unwitting cause of the quarrel, and begged the learned baron to be reconciled to his brother. This speech had the desired effect, and harmony was once more restored."

and at the next roadside inn they could get a board that would serve them for a table. The suggestion was unanimously adopted; and throughout the remainder of the comfortless progress, the mourners played steadily with complete indifference to the scenery which surrounded them, and with that superb devotion to "the game," which characterized whist-players half a century since. Under the circumstances, the mourners "progressed as favorably as could be expected." Their spirits rose; much money changed hands; and when the four gentlemen stood in the old lady's mausoleum, the two who had won were sustained by an enlivening sense of worldly prosperity; and the two who had lost thirsted for revenge on the homeward journey.

Unfortunately, however, certain local gossips of the puritanical district where the old lady was buried, had either seen the mourners at whist, or heard how they amused themselves. The story passed from mouth to mouth, and reached London almost as soon as the melancholy whist-players. Of course in London the story lived; and years afterwards, when the nephew had risen to eminence in politics and law, people were told at dinner-parties how the great lawyer had taken his aunt's body from London to Scotland, *playing cards on her coffin throughout the entire journey.* This last development of the report was delightful. The simple *raconteurs* maintained that the coffin was put across the interior of the carriage, the head sticking out of one window, the foot out of the other, and that the flippant nephew and his friends thus cut and dealt upon the very coffin-lid. That the ordinary carriage windows of the period were far too small so to admit a full-sized coffin, and that if the windows had been blocked up with a coffin, the players would have been in the dark, were facts about which

gentlemen telling the anecdote "on the very best authority" did not care to trouble themselves.

It is needless to say that the custom of posting upon circuit originated in convenience rather than etiquette, and was fixed by sheer necessity rather than by professional taste. The public conveyances regularly plying between provincial towns were quite insufficient to meet the exceptional demands of circuiteers, who were consequently compelled to hire carriages. It having thus become usual for barristers to post, regard for professional decorum stepped in, and changed custom into law. When railways began to suck the traffic of the old turnpike roads, the etiquette of the bar was relaxed,—counsel being allowed to travel circuit by public conveyances, if they contrived to enter actual towns of assize on horseback or in quasi-private carriages. Soon it was permitted them to run into an assize-town by ordinary railway trains; and when it had once been allowed that a barrister might travel circuit in a public carriage drawn by machinery, the rule forbidding him to enter a public conveyance drawn by animal power soon became obsolete.

The railway has done much to destroy the ancient sociability of circuit. Instead of tarrying steadily in each town throughout assizes, barristers, on the rising of court, sometimes return to London for dinner, or whisk off by an express train to a watering place forty miles distant. Especially is this the case on circuits, and parts of circuits, lying within easy range of London. Even so late as the last generation, the common-law barrister looked forward to circuit as a social jaunt, not less than as a journey in search of fees. As soon as he had ridden twenty miles from London, he relied on his brother-circuiteers for companionship and the means of wholesome recreation. Occasionally he might dine at the house of a country friend *en route* for the "next town," but for

the most part he found his amusement as well as his work in the assize-towns. He dined regularly at the bar mess, save when he accepted a judge's invitation, or drank a magnum of port at a mayor's table. The gentlemen of the long robe did not smoke in those days, or if they smoked they were moderate and clandestine smokers. The cigar and philosophic conversation were not amongst their nightly excitements: but they had their short-whist and steaming punch, their puns and good stories.

They lived with each other, gossiping, jesting, drinking; cultivating the social virtues and ruining their constitutions in the most approved fashions of the good old times. Rare the days, and still better the nights, of every jolly fellow for whom full-bodied wine had mirth without penal consequences; and who was known amongst his brother-circuiteers as a boon-companion, good at a bottle, sure at cards, abounding in repartee, and able at fit times to sing "The Rising Barrister," or "I know a Judge." But let it not be supposed that barristers had no more elevating enjoyments. Loving woman as well as wine and song, they were seen at county or municipal balls, dancing the dances of the period, and rousing the sentiment which knows not fashion, and is the same now that it was before the fall of Troy.

But all is changed now. "Circuit is not what it used to be!" How often is this regret heard on the lips of veterans who joined their circuits when Copley was at the height of his fame, and Lord Erskine a man about town. Circuit is not what it was! Here and there may be found an *amateur* barrister who still loves to ride the summer circuit, followed by a mounted clerk. A judge can still be pointed to in Westminster, who, in the fashion of olden time, has "ridden his round." But the pleasure and pomp, the leisurely progress and social friendliness of the old circuit life are no more. The attempt to pre-

serve them is the failure of a few young men who know not the glory of the past. The mess is no longer a privilege and a source of vivid enjoyment, but a heavy dinner, at which leaders now and then condescend to show themselves, and juniors eat in silence and drink listlessly. There is a little whist still: but the game is a miserable pretense in an age which tolerates no vice that requires more than two persons for its consummation. The assembly-room is an extinct institution. Unless the mayor is an attorney, no barrister dines with him; whereas in the good old time no counsel was permitted to dine, during assizes, with a mayor who belonged "to the lower order of the profession." What youngster is now-a-days ambitious of becoming "the jolly good fellow" of his circuit? Why, the youngsters of this degenerated age on the Home Circuit dine in Pall Mall instead of Lewes and Guildford. This is the sum of the sad case:—Lawyers no longer "ride circuit," they "rail it."

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## CHAPTER XVII.

MANY are the good stories told of great lawyers who, in their earlier years of obscurity and comparative indigence, found it difficult to raise funds for the purchase of a new horse. In the summer of 1741, Charles Pratt had for three years ridden the Western Circuit—the circuit on which his father, Sir John Pratt, for years discharged the office of judge—when his horse suddenly died at a western assize-town. Without clients, and without large private resources, the young circuiteer reluctantly bought a fresh horse to replace the brute which had dropped in the middle of the legal round. Accidents with horseflesh never come singly; and scarcely

had Pratt purchased his new steed, when it turned up lame. "Alas!" he wrote to a friend, soon after his return to town, "my horse is lamer than ever—no sooner cured of one shoulder than the other began to halt. My losses in horseflesh ruin me, and keep me so poor that I have scarce money enough to bear me in a summer ramble; yet ramble I must, if I starve to pay for it."

The son of a country parson was more cruelly pressed than the son of a Chief Justice. When lazy, keen-eyed, luquacious Ned Thurlow had eaten his dinner and donned a bar gown, he was sorely perplexed as to means for procuring a horse. Like the future Lord Camden, he selected the Western Circuit; but less richly endowed by fortune, he encountered insuperable obstacles in his attempts to get possession by fair means of a suitable steed. In the previous century Maynard had walked the circuit; but Thurlow was averse to bodily exercise, and professional prejudice ran strongly against pedestrian circuiteers. There was urgent want of a horse. How was it to be supplied? Thurlow had bought his wig on credit, and he "ticked" his dinners at Nando's and the Mitre; but the wary British horse-dealer was resolutely in favor of cash transactions, when his customers were unknown members of the junior bar. In his trouble he called on a horsedealer, and in the confident tone of a man who, without inconvenience, could at his own cost put a cavalry regiment in the field, intimated that he stood in need of a very superior roadster. As to price, money was an affair of total indifference to him, so long as he could get a really desirable animal. "Show me a horse that you can recommend; and if I like him *after trial*, I'll have him at your own price." What could mortal dealer do but assent to this proposal, coming from the well-looking, imperious young man, whose aspect was so imposing that a shrewd ob-

server said, "It is impossible for any one to *be* so wise as Thurlow looks." Forthwith a strong and serviceable hackney was saddled; and the young barrister mounted. The trial lasted longer than the dealer thought fair. Instead of returning to the stables in the course of the afternoon, Thurlow rode off to Winchester; and when the owner of the steed again looked upon his property, the creature had visited every town on the Western Circuit. Together with the horse, the dealer received a note from Thurlow, intimating that "the animal, notwithstanding some good points, did not altogether suit him."

A good story is told in "Campbell's Chief Justices," of George Wood, the famous special pleader and instructor of law students. "George," says Lord Campbell, "though a subtle pleader, was very ignorant of horse-flesh, and had been cruelly cheated in the purchase of a horse on which he had intended to ride the circuit. He brought an action on the warranty that the horse was 'a good roadster and free from vice.' At the trial, before Lord Mansfield, it appeared that when the plaintiff mounted at the stables in London, with the intention of proceeding to Barnet, nothing could induce the animal to move forward a single step. On hearing this evidence, the Chief Justice, with much gravity, exclaimed, 'Who would have supposed that Mr. Wood's horse would have *demurred*, when he ought to have *gone to the country?*' Any attempt to explain this excellent joke to *lay gents* would be vain, and to lawyers would be superfluous." Thus says Lord Campbell in the "Chief Justices;" but in his earlier work, the "Chancellors," he attributes the pun to Erskine, and explains the joke to the "lay gents" with sufficient clearness.

When Lord Kenyon—"Taffy," as Thurlow used to call him in the insolence of patronage and good-humored contempt—first appeared amongst the barristers of the

North Welsh Circuit, he rode a small Welsh pony, given him by his economical father.

Mounted in like manner on a pony, Thomas Erskine joined the Home Circuit in the spring of 1779; but the smallness of his steed need not be attributed to lack of money; for, although his call took place so recently as the July of the previous year, he was already in great and lucrative practice.

Like Eldon, and the majority of eminently successful men who have raised themselves to conspicuous stations from obscure beginnings, Erskine delighted to magnify the difficulties and privations of his early manhood. The notorious suddenness of his rise, immediately after his call, put it beyond his power to romance, after the fashion of John Scott, about long endurance of a penury that rendered loathsome fish, bought for a few pence in an unclean market, a suitable and welcome repast. But in tones alternately pathetic and triumphant, he would tell startling and incredible stories of his sordid experiences between his retirement from the army and his call. The children whose hands he felt plucking his robe in Westminster Hall, were fed in those days on cow-beef; his wife ate cow-beef; he himself ate cow-beef. If the butcher had been called to give evidence on this point—unless we are greatly mistaken—that worthy man would have been very indignant at the suggestion that he dealt in meat of an inferior quality. Far too much has been made of Erskine's early indigence. His father's poverty has been ridiculously exaggerated. Doubtless young Thomas Erskine had less money than appetite for the luxuries which can be purchased with money; but there are facts that disprove, or at least discredit, the droll fictions with regard to the privations of his student-life. His family were not in opulent circumstances, but he had blood-relations able and willing to assist him. However

close and stingy they may sometimes be to those who are not of their kin, the Scotch of all degrees, and especially those of noble condition, are generous to members of their immediate connexion. Mrs. Erskine was the daughter of a gentleman who sat in the House of Commons, and though she brought her husband no definite fortune, she was not the child of a necessitous father. That Erskine was not cruelly pressed for money at the period under consideration, is seen by the fact that he could afford to keep terms at Cambridge whilst he ate dinners at Lincoln's Inn. He not only kept terms at Cambridge, but kept them as a fellow-commoner of the most expensive college in the University, Trinity College. The difference between an ordinary pensioner's fees and a fellow-commoner's fees, was a sum which no man would have sacrificed without a good purpose, whilst his wife and children lacked the comforts of life. Be it also borne in mind that the mere cost of coaching eight times per annum between Cambridge and town was in those days a grave matter to a very poor man. It may be objected that these expenses are, to a certain extent, in favor of the view that he experienced urgent poverty at the time of his call, since liberal expenditure leads to want. But it surely seems far more reasonable to argue that Erskine would not have entered his profession in such a costly manner if he had been pinched for the means of living.

Residence at Cambridge of course shortened the period of his studentship at Lincoln's Inn; but he could have attained that advantage without paying the dues of a fellow-commoner. Moreover, in London he led the life of a man of pleasure—dining at rich men's tables, dancing with ladies of fashion, and talking wits to silence. This is not the life of a necessitous man. It has been said that after joining Lincoln's Inn he wore his old regimentals, because he could not afford to buy a civil-

ian's dress; but in reply it may be urged that he did not finally sever himself from the army until he had for some time been a law student, and that until the sale of his commission, vanity and fashion alike prompted him to wear the military costume. Anyhow, it is a fact that he was a most prosperous man when he joined the Home Circuit, although Lord Campbell, misled by the epitaph, says, "He composed the following lines to the memory of a beloved pony 'Jack,' who had carried him on the Home Circuit when he was first called to the bar, and could not afford any more sumptuous mode of traveling."

Erskine's humanity towards animals is perpetuated in his bill "For the Prevention of Cruelty to Animals," in one of his speeches in which measure he passionately observed: "As to the tendency of barbarous sports, of any description whatsoever, to nourish the natural characteristic of manliness and courage—the only shadow of argument I ever heard on such occasions—all I can say is this, that from the mercenary battles of the lowest of beasts—human boxers—up to those of the highest and noblest that are tormented by man for his degrading pastime, I enter this public protest against such reasoning. I never knew a man remarkable for heroic bearing, whose very aspect was not lighted up by gentleness and humanity; nor a *kill-and-eat-him* countenance that did not cover the heart of a bully or a poltroon." Of many quaint stories illustrating his fine tenderness for the mute creation, one may be inserted in this paragraph. Having expostulated with a ruffian for violently beating a feeble and emaciated horse, he was asked by the rascal, "Why! it is my own, mayn't I use it as I please?" The man's tone heightened the insolence of his words, and having uttered them he renewed his attack upon the poor brute. In a trice Erskine, who was armed with a stout cane, gave the offender a sound thrashing. "What

right have you to strike me?" roared the fellow, beside himself with rage and pain. "Pooh, man!" replied the executioner, "my stick is my own, mayn't I use it as I please?"

Until he was ruined by the acquisition of the seals, Erskine lavished money on his stables and traveling equipages. His carriages were the best in town, and his horses roused the enthusiasm of equestrian connoisseurs. At the close of the famous trials of Hardy, Horne Tooke, and Thelwall,—trials which raised Erskine to the summit of his fortunes, and made him the idol of the people,—the mob took the horses from his carriage, and dragged him in triumph from the Old Bailey to Sergeants' Inn. "Injured innocence," exclaimed Erskine, addressing the crowd from a window when he had passed from his carriage to his house, "still obtains protection from a British jury; and I am sure, in the honest effusions of your hearts, you will retire in peace and bless God." To Sir John Scott and the other counsel for the crown, who had not figured to advantage in these foolish prosecutions, Erskine's triumph was extremely irritating. Scott and Mitford both maintained that Erskine's friends were the scum of the London rabble, and that he lowered the dignity of his profession by pandering to the passions of the vulgar. But they were well aware that Erskine was not an unprincipled demagogue, and that he had been dragged in triumph to Chancery Lane by a mob of gentlemen. "Erskine," wrote Lord Eldon in his old age, "was, of course, extremely popular. He was received with universal plaudits, and there was nothing to disturb his enjoyment of this contrast, or to soften any mortification, until one evening the multitude, which had thought proper to take his horses from his carriage that they might draw him home, conceived among them such a fancy for a patriot's horses as not to return them, but to keep them

for their own use and benefit." The malice of this story is exquisite.

Lord Eldon was a bad rider and an inexpert whip. Even William Henry Scott, that pattern of an admiring and dutiful son, used to laugh at the great Chancellor's maladroitness in all matters pertaining to horse-flesh. With much glee and agreeable egotism, Lord Campbell tells the following story of Eldon and his favorite child:— "They were walking together in Piccadilly when a gentleman, driving past them in a smart cabriolet (with a *tiger* behind), took off his hat and made a low bow. 'Who is that,' said Lord Eldon, 'who treats me with respect now that I am nobody?' 'Why, sir,' said William Henry, 'that is Sir John Campbell, the Whig Solicitor General.' 'I wonder what they would have said of me,' cried the ex-Chancellor, 'if I had driven about in a cabriolet when I was Solicitor General?' 'I will tell you what they would have said, dear father,' replied William Henry; 'they would have said, there goes the greatest *lawyer* and worst *whip* in England.'"

Clumsy and inefficient in all field sports, Lord Eldon used to laugh at his own deficiencies with respect to the accomplishments most in vogue with the country gentlemen of his time. This good humor was the more creditable as he enjoyed playing the part of a rural squire, and took great though bootless pains to qualify himself with skill as well as license to kill the game which he preserved on his estate at considerable cost. As long as he could relish bodily exercise he carried a gun; but he never ventured to ride with hounds, after reaching years of sound discretion.

But though he abstained from following the hounds, he was not slow to follow a pretty girl on horseback. A mounted lover, he enjoyed many a stolen interview with Bessie Surtees on the Shields high road, where the young

lady was accustomed to ride, followed by an old groom, who was bribed to secrecy by the comely young Oxonian.

Having in the saddle won Bessie's promise to be his wife, he continued a horseman so far that, during his connection with the Northern Circuit, he steadily rode the grand tour. One of his favorite anecdotes referred to his first excursion with the circuiteers. Having described with the imaginative touches which always characterized his personal reminiscences, the efforts it cost him to procure horses and equipment for the journey, he used to continue :—"At last I hired a horse for myself, and borrowed another for an experienced youth, who was to ride behind me with my saddle-bags. But I thought my chance was gone ; for having been engaged in a discussion with a traveling companion, on approaching the assize-town I looked behind, but there was no appearance of my clerk, and I was obliged to ride back several miles, till I found him crying by the roadside, his horse at some distance from him, and the saddle-bags still farther off, and it was not without great difficulty that I could accomplish the reunion, which he had in vain attempted. *Had I failed, too, in this undertaking, I should never have been Lord Chancellor.*' How could this mishap, under any fairly probable circumstances, have influenced his professional career to the extent suggested? At worst he might have been too late for a cause, and lost a client at the next assize-town.

As soon as carriages were generally adopted, public men deemed it prudent, and the wealthy thought it pleasant, to dazzle and awe the vulgar with splendid and pompous equipages. As with horses, so also with chariots, and lawyers maintained the dignity of their order, and until ostentatious equipages went out of fashion the chief dignitaries of the bench and the leaders

of the bar rivalled the ancient nobility in the grandeur and state of their progresses.

Whilst Dudley Ryder (afterwards Chief Justice Ryder) was Attorney General he was accustomed to journey between his house in Chancery Lane, and his villa at Streatham, in a coach-and-six, to the infinite delight of humble folk and the approval of his profession. The next hundred years brought about notable changes in social manners; and amongst them the general disuse of cumbrous coaches and needlessly expensive methods of traveling was by no means the least important. Congratulating himself on the altered taste, Lord Campbell said, "When I was Attorney General I had the pleasure of traveling, when I chose, on the top of a stage-coach or in an omnibus—in which I met a ducal member of the cabinet." The nobleman thus alluded to was the Duke of Wellington.

After Sir Dudley Ryder's sudden death, ere the order for his patent of nobility had been carried into effect, the family of the late Chief Justice had a misunderstanding with Sir Dudley's successor, Lord Mansfield, concerning the deceased judge's state-coach. The Chief's coach (like the Chancellor's coach up to the present time) customarily went with the office, the incoming judge paying the value of the carriage to his predecessor's estate. The sum to be paid was a matter of fresh agreement, on each transference of a coach. Unfortunately, Sir Dudley Ryder's son (the gentleman who, after a lapse of many years, won anew the rank to which his father had virtually attained at the moment of his death) differed with Murray as to the value of his father's vehicle; and on November 29, 1756, the new Chief wrote this scarcely courteous note to the future Lord Harrowby: "Lord Mansfield is only solicitous that Mr. Ryder may do what is most agreeable to himself, and as to the rest is ex-

tremely indifferent. But he would not, for much more than the value of the coach, have more than one word about such a transaction with Mr. Ryder, for whom he has the greatest regard, and to whom, upon his father's account, he would be ready to show upon all occasions every act of civility and friendship."

Unlike Murray, who quitted his native land on the back of the pony that brought him to Westminster School, Alexander Wedderburn made the journey from Edinburgh to London in a public coach, which, a century since, was deemed a marvel of expedition. It reached London on the morning of the sixth day after its departure from the northern capital. In 1766, just about nine years after Wedderburn's hegira, a raw Northumbrian lad entered the Newcastle coach, at the booking-office on Tyne-side, and traveled to the English metropolis in three nights and four days. This conveyance, instead of making speed its sole object, aimed at ensuring the safety of the traveler. "Sat cito, si sat bene," was the motto on its panels; and when the Newcastle stripling alighted at the White Horse, Fetter Lane, Holborn, his elder brother, William Scott (then fellow and tutor of University College, and subsequently Lord Stowell) shook him by the hand, and congratulated him on a punctual arrival at the antique hostelry. The motto of the coach took hold of the boy's mind; and having made fun of it during that first long journey, he moralized about it in his old age. One of his fellow-passengers on the road was an old Quaker, who, when the coach stopped at the inn at Tuxford, gave the maid-servant sixpence, reminding her that he owed it to her, having omitted to pay her that sum two years before. "Friend," asked the impudent boy, addressing the Quaker, "hast thou seen the motto on this coach?" On being answered in the negative, John Scott rejoined, "Then look at it, for I think

that giving her only sixpence now, for all she did for you two years ago, is neither *sat cito* nor *sat bene*."

Let notice be here taken of another eminently successful lawyer from the north country, John, Lord Campbell. Comparing his own first journey from Edinburgh to London with Wedderburn's journey in 1756, the author of the "Chancellors" says, "When I first reached London, I performed the same journey in three nights and two days, Mr. Palmer's mail-coaches being then established: but this swift traveling was considered dangerous as well as wonderful, and I was gravely advised to stop at York, 'as several passengers who had gone through without stopping had died of apoplexy from the rapidity of the motion.' The whole distance can now be accomplished with ease and safety in twelve hours, and intelligence can be communicated from the one capital to the other in as many seconds." The story runs that young John Campbell, then a raw, lean, awkward Scotch lad, on descending from the stage-coach, found himself in London with no more money in his pocket than three sixpences. Having paid his fare and tipped the coachman, having expended a modest sum on food and drink consumed upon the journey, he stood on the London pavement, enduring the pangs of sharp hunger, and rubbing the three small coins between his bony fingers. The town had friends ready to welcome him with cautious civility; but to them he could not look for a replenishment of his exhausted finances. There was need for prudence. Leaving his luggage at the booking-office, the young man (let us say "the lad," for the time was June, 1800, and he had not completed his nineteenth year) walked to the office of a daily newspaper, on which he had been invited to work as a reporter. "Was the place kept vacant for him? Was he secure of the promised employment? Would he at the close of the following week

receive from the cashier of the office two sovereigns?" The answers were affirmative; and having received them with lively satisfaction, the enterprising youth ran to the nearest cook-shop, and devoured three sixpenny plates of beef. Had he not secured his appointment, he would have expended but a third of his remaining fund on that night's supper. So runs the story of John Campbell's first entrance into London,—a story which bears upon its face so many doubtful features and suspicious peculiarities, that this writer would be sorry to pledge his name for its truth.

From his first appearance in town, Alexander Wedderburn lived with ostentation. Until he raised himself to lucrative practice, he indulged in all the pleasures and pursuits of a fashionable Templar. His chambers were commodious and luxuriously furnished; in costume he challenged comparison with the smartest gallants of the town; and writers, wits, and actors, with whom he consorted in taverns and coffee-rooms, never accused him of stinginess or poverty—qualities in those days too frequently attributed by popular prejudice to young Scotchmen who were neither indigent nor avaricious. That he resembled his countrymen in his dullness was the opinion of detractors; but no charge of pecuniary meanness was ever preferred against him. As soon as clients came, the ambitious Scotchman angled for more with the baits of increased ostentation and patrician style. On taking office as Solicitor General, he spent a year's income on a service of plate, and his horses were the admiration of London. Legal dignitaries had laid down their coaches-and-six; but Wedderburn's chariots, traveling carirages, and teams of two or four horses, surpassed those of many free-handed and opulent members of the high nobility. Whilst he held the seals he never drove through London without creating a stir by the costliness and perfect style

of his equipages—consisting of two coaches built exactly on the same pattern, and each of them drawn by four superb steeds. During Erskine's brief chancellorship the dignity of the law was properly sustained by his stud and household, and by a grateful and liberal hospitality to the members of his party and his profession. But Eldon introduced a change for the worse. Under his supremacy, the Chancellor's private carriage was a miserable, battered, jingling, ramshackle coach, drawn by two lean, luckless brutes, that roused the derision of the street-boys. Frequently the Chancellor, purse in hand, drove from Bedford Square or Hamilton Place to Westminster in a hackney-coach; and on one occasion he actually left in a common hackney-carriage some state papers of high importance. Fortunately, the driver was either honest or drunk, and promptly restored the documents. But for this unseemly economy Lord Eldon had a precedent in the conduct of the penurious Kenyon, who made weekly trips to his desolate farm-house at Richmond in an antique coach, known on the Richmond road as the "Chief Justice's hearse."

But enough of horses and chariots. In the present generation at the opening of Michaelmas term our legal dignitaries and queen's counsel drive in a long procession from the Chancellor's house to Westminster: but eminent lawyers are no longer remarkable for distinctive equipages, and fashion does not require them to lavish money on horse-dealers and coach-makers. Some of our foremost living judges and advocates are, however, honorably known in hunting counties.

# IV.

# LAWYERS AT HOME.

## CHAPTER XVIII.

A LAW-STUDENT of the present day finds it difficult to realize the brightness and domestic decency which characterized the Inns of Court in the sixteenth, seventeenth, and eighteenth centuries. Under existing circumstances women of character and social position avoid the gardens and terraces of Gray's Inn and the Temple.

Attended by men, or protected by circumstances that guard them from impertinence and scandal, gentlewomen can without discomfort pass and repass the walls of our legal colleges; but in most cases a lady enters them under conditions that announce even to casual passers the object of her visit. In her carriage, during the later hours of the day, a barrister's wife may drive down the Middle Temple Lane, or through the gate of Lincoln's Inn, and wait in King's Bench Walk or New Square, until her husband, putting aside clients and papers, joins her for the homeward drive. But even thus placed, sitting in her carriage and guarded by servants, she usually prefers to fence off inquisitive eyes by a bonnet-veil, or the blinds of her carriage windows. On Sunday, the wives and daughters of gentle families brighten the dingy passages of the Temple, and the sombre courts of Lincoln's Inn: for the musical services of the grand

church and little chapel are amongst the religious entertainments of the town. To those choral celebrations ladies go, just as they are accustomed to enter any metropolitan church; and after service they can take a turn in the gardens of either Society without drawing upon themselves unpleasant attention. So also, unattended by men, ladies are permitted to inspect the floral exhibitions with which Mr. Broome, the Temple gardener, annually entertains London sightseers.

But, save on these and a few similar occasions and conditions, gentlewomen avoid an Inn of Court as they would a barrack-yard, unless they have secured the special attendance of at least one member of the society. The escort of a barrister or student alters the case. What barrister, young or old, cannot recall mirthful eyes that, with quick shyness, have turned away from his momentary notice, as in answer to the rustling of silk, or stirred by sympathetic consciousness of woman's noiseless presence, he has raised his face from a volume of reports, and seen two or three timorous girls peering through the golden haze of a London morning into the library of his Inn? What man thus drawn away for thirty seconds from prosaic toil, has not in that half minute remembered the faces of happy rural homes,—has not recalled old days when his young pulses beat cordial welcome to similar intruders upon the stillness of the Bodleian, or the tranquil seclusion of Trinity library? What occupant of dreary chambers in the Temple, reading this page, cannot look back to a bright day when young, beautiful, and pure as sanctity, Lilian, or Kate, or Olive, entered his room radiant with smiles, delicate in attire, and musical with gleesome gossip about country neighbors and the life of a joyous home?

Seldom does a Templar of the present generation receive so fair and innocent a visitor. To him the presence

of a gentlewoman in his court is an occasion for ingenious conjecture; encountered on his staircase she is a cause of lively astonishment. His guests are men, more or less addicted to tobacco; his business callers are solicitors and their clerks; in his vestibule the masculine emissaries of tradesmen may sometimes be found—head-waiters from neighboring taverns, pot-boys from the "Cock" and the "Rainbow." A printer's devil may from time to time knock at his door. But of women—such women as he would care to mention to his mother and sisters—he sees literally nothing in his dusty, ill-ordered, but not comfortless rooms. He has a laundress, one of a class on whom contemporary satire has been rather too severe.

Feminine life of another sort lurks in the hidden places of the law colleges, shunning the gaze of strangers by daylight; and even when it creeps about under cover of night, trembling with a sense of its own incurable shame. But of this sad life, the bare thought of which sends a shivering through the frame of every man whom God has blessed with a peaceful home and wholesome associations, nothing shall be said in this page.

In past time the life of the law colleges was very different in this respect. When they ceased to be ecclesiastics, and fixed themselves in the hospices which soon after the reception of their gowned tenants were styled Inns of Courts, our lawyers took unto themselves wives, who were both fair and discreet. And having so made women flesh of their flesh and bone of their bone, they brought them to homes within the immediate vicinity of their collegiate walls, and sometimes within the walls themselves. Those who would appreciate the life of the Inns in past centuries, and indeed in times within the memory of living men, should bear this in mind. When he was not on circuit, many a counselor learned in the

law found the pleasures not less than the business of his existence within the bounds of his "honorable society." In the fullest sense of the words he took his ease in his Inn; besides being his workshop, where clients flocked to him for advice, it was his club, his place of pastime, and the shrine of his domestic affections. In this generation a successful Chancery barrister, or Equity draftsman, looks upon Lincoln's Inn merely as a place of business, where at a prodigious rent he holds a set of rooms in which he labors over cases, and satisfies the demands of clients and pupils. A century or two centuries since the case was often widely different. The rising barrister brought his bride in triumph to his "chambers," and in them she received the friends who hurried to congratulate her on her new honors. In those rooms she dispensed graceful hospitality, and watched her husband's toils. The elder of her children first saw the light in those narrow quarters; and frequently the lawyer over his papers was disturbed by the uproar of his heir in an adjoining room.

Young wives, the mistresses of roomy houses in the western quarters of town, shudder as they imagine the discomforts which these young wives of other days must have endured. "What! live in chambers?" they exclaim with astonishment and horror, recalling the smaliness and cheerless aspect of their husbands' business chambers. But past usages must not be hastily condemned,—allowance must be made for the fact that our ancestors set no very high price on the luxuries of elbow-room and breathing-room. Families in opulent circumstances were wont to dwell happily, and receive whole regiments of jovial visitors in little houses nigh the Strand and Fleet Street, Ludgate Hill and Cheapside;—houses hidden in narrow passages and sombre courts—houses, compared with which the lowliest residences in a "genteel suburb" of our

own time would appear capacious mansions. Moreover, it must be borne in mind that the married barrister, living a century since with his wife in chambers—either within or hard-by an Inn of Court—was, at a comparatively low rent, the occupant of far more ample quarters than those for which a working barrister now-a-days pays a preposterous sum. Such a man was tenant of a "set of rooms" (several rooms, although called "a chamber") which, under the present system, accommodates a small colony of industrious "juniors," with one office and a clerk's office attached. Married ladies, who have lived in Paris or Vienna, in the "old town" of Edinburgh, or Victoria Street, Westminster, need no assurance that life "on a flat" is not an altogether deplorable state of existence. The young couple in chambers had six rooms at their disposal,—a chamber for business, a parlor, not unfrequently a drawing-room, and a trim, compact little kitchen. Sometimes they had two "sets of rooms," one above another; in which case the young wife could have her bridesmaids to stay with her, or could offer a bed to a friend from the country. Occasionally during the last fifty years of the last century, they were so fortunate as to get possession of a small detached house, originally built by a nervous bencher, who disliked the sound of footsteps on the stairs outside his door. Time was when the Inns comprised several detached houses, some of them snug dwellings, and others imposing mansions, wherein great dignitaries lived with proper ostentation. Most of them have been pulled down, and their sites covered with collegiate "buildings;" but a few of them still remain, the grand piles having long since been partitioned off into chambers, and the little houses striking the eye as quaint, misplaced, insignificant blocks of human habitation. Under the trees of Gray's Inn Gardens may be seen two modest tenements, each of them comprising

some six or eight rooms and a vestibule. At the present time they are occupied as offices by legal practitioners, and many a day has passed since womanly taste decorated their windows with flowers and muslin curtains; but a certain venerable gentleman, to whom the writer of this page is indebted for much information about the lawyers of the last century, can remember when each of those cottages was inhabited by a barrister, his young wife, and three or four lovely children. Into some such a house near Lincoln's Inn a young lawyer who was destined to hold the seals for many years, and be also the father of a Lord Chancellor, married in the year of our Lord 1718. His name was Philip Yorke: and though he was of humble birth, he had made such a figure in his profession that great men's doors were open to him. He was asked to dinner by learned judges, and invited to balls by their ladies. In Chancery Lane, at the house of Sir Joseph Jekyll, Master of the Rolls, he met Mrs. Lygon, a beauteous and wealthy widow, whose father was a country squire, and whose mother was the sister of the great Lord Somers. In fact, she was a lady of such birth, position, and jointure, that the young lawyer—rising man though he was—seemed a poor match for her. The lady's family thought so: and if Sir Joseph Jekyll had not cordially supported the suitor with a letter of recommendation, her father would have rejected him as a man too humble in rank and fortune. Having won the lady and married her, Mr. Philip Yorke brought her home to a "very small house" near Lincoln's Inn; and in that lowly dwelling, the ground-floor of which was the barrister's office, they spent the first years of their wedded life. What would be said of the rising barrister who, now-a-days, on his marriage with a rich squire's rich daughter and a peer's niece, should propose to set up his household gods in a tiny crib just outside Lincoln's Inn gate, and to use the

parlor of the "very small house" for professional purposes? Far from being guilty of unseemly parsimony in this arrangement, Philip Yorke paid proper consideration to his wife's social advantages in taking her to a separate house. His contemporaries amongst the junior bar would have felt no astonishment if he had fitted up a set of chambers for his wealthy and well-descended bride. Not merely in his day, but for long years afterwards, lawyers of gentle birth and comfortable means, who married women scarcely if at all inferior to Mrs. Yorke in social condition, lived upon the flats of Lincoln's Inn and the Temple.

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## CHAPTER XIX.

WHATEVER its drawbacks, the system which encouraged the young barrister to marry on a modest income, and make his wife "happy in chambers," must have had special advantages. In their Inn the husband was near every source of diversion for which he greatly cared, and the wife was surrounded by the friends of either sex in whose society he took most pleasure—friends who, like herself, "lived in the Inn," or in one of the immediate adjacent streets. In "hall" he dined and drank wine with his professional compeers and the wits of the bar: the "library" supplied him not only with the law books, but with poems and dramas, with merry trifles written for the stage, and satires fresh from the Row; "the chapel"—or if he were a Templar, "the church"—was his habitual place of worship, where there were sittings for his wife and children as well as for himself; on the walks and under the shady trees of "the garden," he sauntered with his own or, better still,

a friend's wife, criticising the passers, describing the new comedy, or talking over the last ball given by a judge's lady. At times those gardens were pervaded by the calm of collegiate seclusion, but on "open days" they were brisk with life. The women and children of the legal colony walked in them daily; the ladies attired in their newest fashions, and the children running with musical riot over lawns and paths. Nor were the grounds mere places of resort for lawyers and their families. Taking rank amongst the pleasant places of the metropolis, they attracted, on "open days," crowds from every quarter of the town—ladies and gallants from Soho Square and St. James's Street, from Whitehall and Westminster; sightseers from the country and gorgeous alderwomanic dowagers from Cheapside. From the days of Elizabeth till the middle, indeed till the close, of the eighteenth century the ornamental grounds of the four great Inns were places of fashionable promenade, where the rank and talent and beauty of the town assembled for display and exercise, even as in our own time they assembled (less universally) in Hyde Park and Kensington Gardens.

When ladies and children had withdrawn, the quietude of the gardens lured from their chambers scholars and poets, who under murmuring branches pondered the results of past study, or planned new works. Ben Jonson was accustomed to saunter beneath the elms of Lincoln's Inn; and Steele—alike on "open" and "close" days used to frequent the gardens of the same society. "I went," he writes in May, 1709, "in Lincoln's Inn Walks, and having taken a round or two, I sat down, according to the allowed familiarity of these places, on a bench." In the following November he alludes to the privilege that he enjoyed of walking there as "a favor that is indulged me by several of the benchers, who are

very intimate friends, and grown old in the neighborhood."

But though on certain days, and under fixed regulations, the outside public were admitted to the college gardens, the assemblages were always pervaded by the tone and humor of the law. The courtiers and grand ladies from "the west" felt themselves the guests of the lawyers; and the humbler folk, who by special grant had acquired the privilege of entry, or whose decent attire and aspect satisfied the janitors of their respectability, moved about with watchfulness and gravity, surveying the counselors and their ladies with admiring eyes, and extolling the benchers whose benevolence permitted simple tradespeople to take the air side by side with "the quality." In 1736, James Ralph, in his "New Critical Review of the Publick Buildings," wrote about the square and gardens of Lincoln's Inn in a manner which testifies to the respectful gratitude of the public for the liberality which permitted all outwardly decent persons to walk in the grounds. "I may safely add," he says, "that no area anywhere is kept in better order, either for cleanliness and beauty by day, or illumination by night; the fountain in the middle is a very pretty decoration, and if it was still kept playing, as it was some years ago 'twould preserve its name with more propriety." In his remarks on the chapel the guide observes, "The raising this chapel on pillars affords a pleasing, melancholy walk underneath, and by night, particularly, when illuminated by the lamps, it has an effect that may be felt, but not described." Of the gardens Mr. Ralph could not speak in high praise, for they were ill-arranged and not so carefully kept as the square; but he observes, "they are convenient; and considering their situation cannot be esteemed too much. There is something hospitable in laying them open to public use; and while we

share in their pleasures, we have no title to arraign their taste."

The chief attraction of Lincoln's Inn gardens, apart from its beautiful trees, was for many years the terrace overlooking "the Fields," which was made *temp.* Car. II. at the cost of nearly £1000. Dugdale, speaking of the recent improvements of the Inn, says, "And the last was the enlargement of their garden, beautifying with a large tarras wall on the west side thereof, and raising the wall higher towards Lincoln's Inne Fields. Which was done in An. 1663 (15 Car. II.), the charge thereof amounting to a little less than a thousand pounds, by reason that the levelling of most part of the ground, and raising the tarras, required such great labor." A portion of this terrace, and some of the old trees were destroyed to make room for the new dining-hall.

The old system supplied the barrister with other sources of recreation. Within a stone's throw of his residence was the hotel where his club had its weekly meeting. Either in hall, or with his family, or at a tavern near "the courts," it was his use, until a comparatively recent date, to dine in the middle of the day, and work again after the meal. Courts sate after dinner as well as before; and it was observable that counselors spoke far better when they were full of wine and venison than when they stated the case in the earlier part of the day. But in the evening the system told especially in the barrister's favor. All his many friends lying within a small circle he had an abundance of congenial society. Brother-circuiteers came to his wife's drawing-room for tea and chat, coffee and cards. There was a substantial supper at half-past eight or nine for such guests (supper cooked in my lady's little kitchen, or supplied by the "Society's cook"); and the smoking dishes were accompanied by foaming tankards of ale or porter, and followed by su-

perb and richly aromatic bowls of punch. On occasions when the learned man worked hard and shut out visitors by sporting his oak, he enjoyed privacy as unbroken and complete as that of any library in Kensington or Tyburnia. If friends stayed away, and he wished for diversion, he could run into the chambers of his old college-chums, or with his wife's gracious permission could spend an hour at Chatelin's or Nando's, or any other coffee-house in vogue with members of his profession. During festive seasons, when the judges' and leaders' ladies gave their grand balls, the young couple needed no carriage for visiting purposes. From Gray's Inn to the Temple they walked—if the weather was fine. When it rained they hailed a hackney-coach, or my lady was popped into a sedan and carried by running bearers to the frolic of the hour.

Of course the notes of the preceding paragraphs of this chapter are but suggestions as to the mode in which the artistic reader must call up the life of the old lawyers. Encouraging him to realize the manners and usages of several centuries, not of a single generation, they do not attempt to entertain the student with details. It is needless to say that the young couple did not use hackney-coaches in times prior to the introduction of those serviceable vehicles, and that until sedans were invented my lady never used them.

It is possible, indeed it is certain, that married ladies living in chambers occasionally had for neighbors on the same staircase women whom they regarded with abhorrence. Sometimes it happened that a dissolute barrister introduced to his rooms a woman more beautiful than virtuous, whom he had not married, though he called her his wife. People can no more choose their neighbors in a house broken up into sets of chambers, than they can choose them in a street. But the cases

where ladies were daily liable to meet an offensive neighbor on their staircase were comparatively rare; and when the annoyance actually occurred, the discipline of the Inn afforded a remedy.

Uncleanness too often lurked within the camp, but it veiled its face; and though in rare cases the error and sin of a powerful lawyer may have been notorious, the peccant man was careful to surround himself with such an appearance of respectability that society could easily feign ignorance of his offense. An Elizabethan distich—familiar to all barristers, but too rudely worded for insertion in this page—informs us that in the sixteenth century Gray's Inn had an unenviable notoriety amongst legal hospices for the shamelessness of its female inmates. But the pungent lines must be regarded as a satire aimed at certain exceptional members, rather than as a vivacious picture of the general tone of morals in the society. Anyhow the fact that Gray's Inn[1] was alone designated as a home for infamy—whilst the Inner Temple was pointed to as the hospice most popular with rich men, the Middle Temple as the society frequented by Templars of narrow means, and Lincoln's Inn as the abode of gentlemen—is, of itself, a proof that the prevailing manners of the last three institutions were outwardly decorous. Under the least favorable circumstances, a barrister's wife living in chambers, within or near Lincoln's Inn, or the Temple, during Charles II.'s reign, fared as well in this respect as she would have

[1] The scandalous state of Gray's Inn at this period is shown by the following passage in Dugdale's "Origines."—"In 23 Eliz. (30 Jan.) there was an order made that no laundress, nor women called Victuallers, should thenceforth come into the gentlemen's chambers of this society, until they were full forty years of age, and not send their maid-servants, of what age soever, into the said gentlemen's chambers, upon penalty, for the first offense of him that should admit of any such, to be put out of Commons: and for the second, to be expelled the House." The stringency and severity of this order show a determination on the part of the authorities to cure the evil.

done had Fortune made her a lady-in-waiting at Whitehall.

A good story is told of certain visits paid to William Murray's chambers at No. 5, King's Bench Walk, Temple, in the year 1738. Born in 1705, Murray was still a young man, when in 1738 he made his brilliant speech in behalf of Colonel Sloper, against whom Colley Cibber's rascally son had brought an action for *crim. con.* with his wife—the lovely actress who was the rival of Mrs. Clive. Amongst the many clients who were drawn to Murray by that speech, Sarah, Duchess of Marlborough, was neither the least powerful nor the least distinguished. Her grace began by sending the rising advocate a general retainer, with a fee of a thousand guineas; of which sum he accepted only the two-hundredth part, explaining to the astonished duchess that "the professional fee, with a general retainer, could neither be less nor more than five guineas." If Murray had accepted the whole sum he would not have been overpaid for his trouble; for her grace persecuted him with calls at most unseasonable hours. On one occasion, returning to his chambers after "drinking champagne with the wits," he found the duchess's carriage and attendants on King's Bench Walk. A numerous crowd of footmen and link-bearers surrounded the coach; and when the barrister entered his chambers he encountered the mistress of that army of lackeys. "Young man," exclaimed the grand lady, eyeing the future Lord Mansfield with a look of warm displeasure, "if you mean to rise in the world, you must not sup out." On a subsequent night Sarah of Marlborough called without appointment at the same chambers, and waited till past midnight in the hope that she would see the lawyer ere she went to bed. But Murray being at an unusually late supper-party, did not return till her grace had departed in an overpowering rage. "I

could not make out, sir, who she was," said Murray's clerk, describing her grace's appearance and manner, "for she would not tell me her name; *but she swore so dreadfully that I am sure she must be a lady of quality.*"

Perhaps the Inns of Court may still shelter a few married ladies, who either from love of old-world ways, or from stern necessity, consent to dwell in their husbands' chambers. If such ladies can at the present time be found, the writer of this page would look for them in Gray's Inn—that straggling caravansary for the reception of money-lenders, Bohemians, and eccentric gentlemen—rather than in the other three Inns of Court, which have undoubtedly quite lost their old population of lady-residents. But from those three hospices the last of the ladies must have retreated at a comparatively recent date. Fifteen years since, when the writer of this book was a beardless under-graduate, he had the honor of knowing some married ladies, of good family and unblemished repute, who lived with their husbands in the Middle Temple. One of these ladies—the daughter of a county magistrate, the sister of a distinguished classic scholar—was the wife of a common law barrister who now holds a judicial appointment in one of our colonies. The women of her old home circle occasionally called on this young wife: but as they could not reach her quarters in Sycamore Court without attracting much unpleasant observation, their visits were not frequent. Living in a barrack of unwed men, that charming girl was surrounded by honest fellows who would have resented as an insult to themselves an impertinence offered to her. Still her life was abnormal, unnatural, deleterious; it was felt by all who cared for her that she ought not to be where she was; and when an appointment with a good income in a healthy and thriving colony was offered to her husband, all who knew her, and

many who had never spoken to her, rejoiced at the intelligence. At the present time, in the far distant country which looks up to her as a personage of importance, this lady—not less exemplary as wife and mother than brilliant as a woman of society—takes pleasure in recalling the days when she was a prisoner in the Temple.

One of the last cases of married life in the Temple, that came before the public notice, was that of a barrister and his wife who incurred obloquy and punishment for their brutal conduct to a poor servant girl. No one would thank the writer for republishing the details of that nauseous illustration of the degradation to which it is possible for a gentleman and scholar to sink. But, however revolting, the case is not without interest for the reader who is curious about the social life of the Temple.

The portion of the Temple in which the old-world family life of the Inns held out the longest, is a clump of commodious houses lying between the Middle Temple Garden and Essex Street, Strand. Having their entrance-doors in Essex Street, these houses are, in fact, as private as the residences of any London quarter. The noise of the Strand reaches them, but their occupants are as secure from the impertinent gaze or unwelcome familiarities of law students and barristers' clerks, as they would be if they lived at St. John's Wood. In Essex Street, on the eastern side, the legal families maintained their ground almost till yesterday. Fifteen years since the writer of the page used to be invited to dinners and dances in that street—dinners and dances which were attended by prosperous gentlefolk from the West End of the town. At that time he often waltzed in a drawing-room, the windows of which looked upon the spray of the fountain—at which Ruth Pinch loved to gaze when its jet resembled a wagoner's whip. How all old and precious things pass away! The dear old

"wagoner's whip" has been replaced by a pert, perky squirt that will never stir the heart or brain of a future Ruth.

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## CHAPTER XX.

WHILST the great body of lawyers dwelt in or hard by the Inns, the dignitaries of the judicial bench, and the more eminent members of the bar, had suitable palaces or mansions at greater or less distances from the legal hostelries. The ecclesiastical Chancellors usually enjoyed episcopal or archiepiscopal rank, and lived in London palaces attached to their sees or provinces. During his tenure of the seals, Morton, Bishop of Ely, years before he succeeded to the archbishopric of Canterbury, and received the honors of the Cardinalate, grew strawberries in his garden on Holborn Hill, and lived in the palace surrounded by that garden. As Archbishop of Canterbury, Chancellor Warham maintained at Lambeth Palace the imposing state commemorated by Erasmus.

When Wolsey made his first progress to the Court of Chancery in Westminster Hall, a progress already alluded to in these pages, he started from the archiepiscopal palace, York House or Palace—an official residence sold by the cardinal to Henry VIII. some years later; and when the same superb ecclesiastic, towards the close of his career, went on the memorable embassy to France, he set out from his Palace at Westminster, "passing through all London over London Bridge, having before him of gentlemen a great number, three in rank in black velvet livery coats, and the most of them with great chains of gold about their necks."

At later dates Gardyner, whilst he held the seals, kept his numerous household at Winchester House in Southwark; and Williams, the last clerical Lord Keeper, lived at the Deanery, Westminster.

The lay Chancellors also maintained costly and pompous establishments, apart from the Inns of Court. Sir Thomas More's house stood in the country, flanked by a garden and farm, in the cultivation of which ground the Chancellor found one of his chief sources of amusement. In Aldgate, Lord Chancellor Audley built his town mansion, on the site of the Priory of the Canons of the Holy Trinity of Christ Church. Wriothesley dwelt in Holborn at the height of his unsteady fortunes, and at the time of his death. The infamous but singularly lucky Rich lived in Great St. Bartholomew's and from his mansion there wrote to the Duke of Northumberland, imploring that messengers might be sent to him to relieve him of the perilous trust of the Great Seal. Christopher Hatton wrested from the see of Ely the site of Holborn, whereon he built his magnificent palace. The reluctance with which the Bishop of Ely surrendered the ground, and the imperious letter by which Elizabeth compelled the prelate to comply with the wish of her favorite courtier, form one of the humorous episodes of that queen's reign. Hatton House rose over the soil which had yielded strawberries to Morton; and of that house—where the dancing Chancellor received Elizabeth as a visitor, and in which he died of "diabetes *and* grief of mind"—the memory is preserved by Hatton Garden, the name of the street where some of our wealthiest jewelers and gold assayers have places of business.

Public convenience had long suggested the expediency of establishing a permanent residence for the Chancellors of England, when either by successive expressions of the royal will, or by the individual choice of several succes-

sive holders of the *Clavis Regni*, a noble place on the northern bank of the Thames came to be regarded as the proper domicile for the Great Seal. York House, memorable as the birthplace of Francis Bacon, and the scene of his brightest social splendor, demands a brief notice. Wolsey's "York House" or Whitehall having passed from the province of York to the crown, Nicholas Heath, Archbishop of York, estabished himself in another York House on a site lying between the Strand and the river. In this palace (formerly leased to the see of Norwich as a bishop' Inn, and subsequently conferred on Charles Brandon by Henry VIII.) Heath resided during his chancellorship; and when, in consequence of his refusal to take the oath of supremacy, Elizabeth deprived him of his archbishopric, York House passed into the hands of her new Lord Keeper, Sir Nicholas Bacon. On succeeding to the honors of the Marble Chair, Hatton did not move from Holborn to the Strand; but otherwise all the holders of the Great Seal, from Heath to Francis Bacon inclusive, seems to have occupied York House; Heath, of course, using it by right as Archbishop of York, and the others holding it under leases granted by successive archbishops of the northern province. So little is known of Bromley, apart from the course which he took towards Mary of Scotland, that the memory of old York House gains nothing of interest from him. Indeed it has been questioned whether he was one of its tenants. Puckering, Egerton, and Francis Bacon certainly inhabited it in succession. On Bacon's fall it was granted to Buckingham, whose desire to possess the picturesque palace was one of the motives which impelled him to blacken the great lawyer's reputation. Seized by the Long Parliament, it was granted to Lord Fairfax. In the following generation it passed into the hands of the second Duke of Buckingham, who sold house and pre-

cinct for building-ground. The bad memory of the man who thus for gold surrendered a spot of earth sacred to every scholarly Englishman is preserved in the names of *George* Street, *Duke* Street, *Villiers* Street, *Buckingham* street.

The engravings commonly sold as pictures of the York House in which Lord Bacon kept the seals, are likenesses of the building after it was pulled about, diminished and modernized, and in no way whatever represent the architecture of the original edifice. Amongst the art-treasures of the University of Oxford, Mr. Hepworth Dixon fortunately found a rough sketch of the real house, from which sketch Mr. E. M. Ward drew the vignette that embellishes the title-page of "The Story of Lord Bacon's Life."

After the expulsion of the Great Seal of old York House, it wandered from house to house, manifesting, however, in its selections of London quarters a preference for the grand line of thoroughfare between Charing Cross and the foot of Ludgate Hill. Escaping from the Westminster Deanery, where Williams kept it in a box, the *Clavis Regni* inhabited Durham House, Strand, whilst under Lord Keeper Coventry's care. Lord Keeper Littleton, until he made his famous ride from London to York, lived in Exeter House. Clarendon resided in Dorset House, Salisbury Court, Fleet Street, and subsequently in Worcester House, Strand, before he removed to the magnificent palace which roused the indignation of the public in St. James's Street. The greater and happier part of his official life was passed in Worcester House. There he held councils in his bed-room when he was laid up with the gout; there King Charles visited him familiarly, even condescending to be present at the bedside councils; and there he was established when the Great Fire of London caused him, in a panic, to send

his most valuable furniture to his villa at Twickenham, Thanet House, Aldersgate Street, is the residence with which Shaftesbury, the politician, is most generally associated; but whilst he was Lord Chancellor he occupied Exeter House, Strand, formerly the abode of Keeper Littleton. Lord Nottingham slept with the seals under his pillow in Great Queen Street, Lincoln's Inn Fields, the same street in which his successor, Lord Guildford, had the establishment so racily described by his brother Roger North. And Lord Jeffreys moving westward, gave noisy dinners in Duke Street, Westminster, where he opened a court-house that was afterwards consecrated as a place of worship, and is still known as the Duke Street Chapel. Says Pennant, describing the Chancellor's residence, "It is easily known by a large flight of stone steps, which his royal master permitted to be made into the park adjacent for the accommodation of his lordship. These steps terminated above in a small court, on three sides of which stands the house." The steps still remain, but their history is unknown to many of the habitual frequenters of the chapel. After Jeffreys' fall the spacious and imposing mansion, where the *bon-vivants* of the bar used to drink inordinately with the wits and buffoons of the London theaters, was occupied by Government; and there the Lords of the Admiralty had their offices until they moved to their quarters opposite Scotland Yard. Narcissus Luttrell's Diary contains the following entry:—"April 23, 1690. The late Lord Chancellor's house at Westminster is taken for the Lords of the Admiralty to keep the Admiralty Office at."

William III., wishing to fix the holders of the Great Seal in a permanent official home, selected Powis House (more generally known by the name of Newcastle House), in Lincoln's Inn Fields, as a residence for Somers and future Chancellors. The Treasury minute books pre-

serve an entry of September 11, 1696, directing a Privy Seal to "discharge the process for the appraised value of the house, and to declare the king's pleasure that the Lord Keeper or Lord Chancellor for the time being should have and enjoy it for the accommodation of their offices." Soon after his appointment to the seals, Somers took possession of this mansion at the northwest corner of the Fields; and after him Lord Keeper Sir Nathan Wright, Lord Chancellor Cowper, and Lord Chancellor Harcourt used it as an official residence. But the arrangement was not acceptable to the legal dignitaries. They preferred to dwell in their private houses, from which they were not liable to be driven by a change of ministry or a gust of popular disfavor. In the year 1711 the mansion was therefore sold to John Holles, Duke of Newcastle, to whom it is indebted for the name which it still bears. This large, unsightly mansion is known to every one who lives in London, and has any knowledge of the political and social life of the earlier Georgian courtiers and statesmen.

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## CHAPTER XXI.

THE annals of the legal profession show that the neighborhood of Guildhall was a favorite place of residence with the ancient lawyers, who either held judicial offices within the circle of the Lord Mayor's jurisdiction, or whose practice lay chiefly in the civic courts. In the fifteenth and sixteenth centuries there was quite a colony of jurists hard by the temple of Gog-magog and Cosineus—or Gog and Magog, as the grotesque giants are designated by the unlearned, who know

not the history of the two famous effigies, which originally figured in an Elizabethan pageant, stirring the wonder of the illiterate, and reminding scholars of two mythical heroes about whom the curious reader of this paragraph may learn further particulars by referring to Michael Drayton's "Polyolbion."

In Milk Street, Cheapside, lived Sir John More, judge in the Court of King's Bench; and in Milk Street, A.D. 1480, was born Sir John's famous son Thomas, the Chancellor, who was at the same time learned and simple, witty and pious, notable for gentle meekness and firm resolve, abounding with tenderness and hot with courage. Richard Rich—who beyond Scroggs or Jeffreys deserves to be remembered as the arch-scoundrel of the legal profession—was one of Thomas More's playmates and boon companions for several years of their boyhood and youth. Richard's father was an opulent mercer, and one of Sir John's near neighbors; so the youngsters were intimate until Master Dick, exhibiting at an early age his vicious propensities, came to be "esteemed very light of his tongue, a great dicer and gamester, and not of any commendable fame."

On marrying his first wife Sir Thomas More settled in a house in Bucklersbury, the City being the proper quarter for his residence, as he was an under-sheriff of the City of London, in which character he both sat in the Court of the Lord Mayor and Sheriffs, and presided over a separate court on the Tuesday of each week. Whilst living in Bucklersbury he had chambers in Lincoln's Inn. On leaving Buckersbury he took a house in Crosby Place; from which he moved, in 1523, to Chelsea, in which parish he built the house that was eventually pulled down by Sir Hans Sloane in the year 1740.

A generation later, Sir Nicholas Bacon was living in Noble Street, Foster Lane, where he had built the man-

sion known as Bacon House, in which he resided till, as Lord Keeper, he took possession of York House. Chief Justice Bramston lived, at different parts of his career, in Whitechapel; in Philip Lane, Aldermanbury; and (after his removal from Bosworth Court) in Warwick Lane. Sir John Bramston (the autobiographer) married into a house in Charterhouse Yard, where his father, the Chief Justice, resided with him for a short time.

But from an early date, and especially during the seventeenth and eighteenth centuries, the more prosperous of the working lawyers either lived within the walls of the Inns, or in houses lying near the law colleges. Fleet Street, the Strand, Holborn, Chancery Lane, and the good streets leading into those thoroughfares, contained a numerous legal population in the times between Elizabeth's death and George III.'s first illness. Rich benchers and judges wishing for more commodious quarters than they could obtain at any cost within college walls, erected mansions in the immediate vicinity of their Inns: and their example was followed by less exalted and less opulent members of the bar and judicial bench. The great Lord Strafford first saw the light in Chancery Lane, in the house of his maternal grandfather, who was a bencher of Lincoln's Inn. Lincoln's Inn Fields was principally built for the accommodation of wealthy lawyers; and in Charles II.'s reign Queen Street, Lincoln's Inn Fields, was in high repute with legal magnates. Sir Edward Coke lived alternately in chambers, and in Hatton House, Holborn, the palace that came to him by his second marriage. John Kelyng's house stood in Hatton Garden, and there he died in 1671. In his mansion in Lincoln's Inn Fields, Sir Harbottle Grimston, on June 25, 1660 (shortly before his appointment to the Mastership of the Rolls, for which place he is said to have given Clarendon £8000), entertained Charles II. and

a grand gathering of noble company. After his marriage Francis North took his high-born bride into chambers, which they inhabited for a short time until a house in Chancery Lane, near Sergeant's Inn, was ready for their use. On Nov. 15, 1666,—the year of the fire of London, in which year Hyde had his town house in the Strand—Glyn died in his house, in Portugal Row, Lincoln's Inn Fields. On June 15, 1691, Henry Pollexfen, Chief Justice of Common Pleas, expired in his mansion in Lincoln's Inn Fields. These addresses—taken from a list of legal addresses lying before the writer—indicate with sufficient clearness the quarter of the town in which Charles II.'s lawyers mostly resided.

Under Charles II. the population of the Inns was such that barristers wishing to marry could not easily obtain commodious quarters within college-walls. Dugdale observes "that all but the benchers go two to a chamber: a bencher hath only the privilege of a chamber to himself." He adds—"If there be any one chamber consisting of two parts, and the one part exceeds the other in value, and he who hath the best part sells the same, yet the purchaser shall enter into the worst part; for it is a certain rule that the auntient in the chamber—*viz.*, he who was therein first admitted, without respect to their antiquity in the house, hath his choice of either part." This custom of sharing chambers gave rise to the word "chumming," an abbreviation of "chambering." Barristers in the present time often share a chamber—*i. e.*, set of rooms. In the seventeen century an utter-barrister found the half of a set of rooms inconveniently narrow quarters for himself and wife. By arranging privately with a non-resident brother of the long robe, he sometimes obtained an entire "chamber," and had the space allotted to a bencher. When he could not make such an arrangement, he usually moved to a house outside the gate, but in the

immediate vicinity of his Inn, as soon as his lady presented him with children, if not sooner.

Of course working, as well as idle, members of the profession were found in other quarters. Some still lived in the City: others preferred more fashionable districts. Roger North, brother of the Lord Keeper and son of a peer, lived in the Piazza of Covent Garden, in the house formerly occupied by Lely the painter. To this house Sir Dudley North moved from his costly and dark mansion in the City; and in it he shortly afterwards died, under the hands of Dr. Radcliffe and the prosperous apothecary, Mr. St. Amand. "He had removed," writes Roger, "from his great house in the City, and came to that in the Piazza which Sir Peter Lely formerly used, and I had lived in alone for divers years. We were so much together, and my incumbrances so small, that so large a house might hold us both." Roger was a practicing barrister and Recorder of Bristol.

During his latter years Sir John Bramston (the autobiographer) kept house in Greek Street, Soho.

In the time of Charles II. the wealthy lawyers often maintained suburban villas, where they enjoyed the air and pastimes of the country. When his wife's health failed, Francis North took a villa for her at Hammersmith, "for the advantage of better air, which he thought beneficial for her;" and whilst his household tarried there, he never slept at his chambers in town, "but always went home to his family, and was seldom an evening without company agreeable to him." In his later years, Chief Justice Pemberton had a rural mansion in Highgate, where his death occurred on June 10, 1698, in the 74th year of his age. A pleasant chapter might be written on the suburban seats of our great lawyers from the Restoration down to the present time. Lord Mansfield's "Kenwood" is dear to all that are curious in legal *ana*.

Charles Yorke had a villa at Highgate, where he entertained his political and personal friends. Holland, the architect, built a villa at Dulwich for Lord Thurlow; and in consequence of a quarrel between the Chancellor and the builder, the former took such a dislike to the house, that after its completion he never slept a night in it, though he often passed his holidays in a small lodge standing in the grounds of the villa. "Lord Thurlow," asked a lady of him, as he was leaving the Queen's Drawing-room, "when are you going into your new house?" "Madam," answered the surly Chancellor, incensed by her curiosity, "the Queen has asked me that impudent question, and I would not answer her; I will not tell you." For years Loughborough and Erskine had houses in Hampstead. "In Lord Mansfield's time," Erskine once said to Lord Campbell, "although the King's Bench monopolized all the common-law business, the court often rose at one or two o'clock—the papers, special, crown, and peremptory being cleared; and then I refreshed myself by a drive to my villa at Hampstead." It was on Hampstead Heath that Loughborough, meeting Erskine in the dusk, said, "Erskine, you must not take Paine's brief;" and received the prompt reply, "But I have been retained, and I will take it, by G—d!" Much of that which is most pleasant in Erskine's career occurred in his Hampstead villa. Of Lord Kenyon's weekly trips from his mansion in Lincoln's Inn Fields to his farm-house at Richmond notice has been taken in a previous chapter. The memory of Charles Abbott's Hendon villa is preserved in the name, style, and title of Lord Tenterden, of Hendon, in the county of Middlesex. Indeed, lawyers have for many generations manifested much fondness for fresh air; the impure atmosphere of their courts in past time apparently whetting their appetite for wholesome breezes.

Throughout the eighteenth century Lincoln's Inn Fields, an open though disorderly spot, was a great place for the residence of legal magnates. Somers, Nathan Wright, Cowper, Harcourt, successively inhabited Powis House. Chief Justice Parker (subsequently Lord Chancellor Macclesfield) lived there when he engaged Philip Yorke (then an attorney's articled clerk, but afterwards Lord Chancellor of England) to be his sons' law-tutor. On the south side of the square, Lord Chancellor Henley kept high state in the family mansion that descended to him on the death of his elder brother, and subsequently passed into the hands of the Surgeons, whose modest but convenient college stands upon its site. Wedderburn and Erskine had their mansions in Lincoln's Inn Fields, as well as their suburban villas. And between the lawyers of the Restoration and the judges of George III.'s reign, a large proportion of our most eminent jurists and advocates lived in that square and the adjoining streets; such as Queen Street on the west, Serle Street, Carey Street, Portugal Street, Chancery Lane, on the south and south-east. The reader, let it be observed, may not infer that this quarter was confined to legal residents. The lawyers were the most conspicuous and influential occupants; but they had for neighbors people of higher quality, who, attracted to the square by its openness, or the convenience of its site, or the proximity of the law colleges, made it their place of abode in London. Such names as those of the Earl of Lindsey and the Earl of Sandwich in the seventeenth, and of the Duke of Ancaster and the Duke of Newcastle in the eighteenth century, establish the patrician character of the quarter for many years. Moreover, from the books of popular antiquaries, a long list might be made of wits, men of science, and minor celebrities, who, though not personally connected with the law, lived under the shadow of Lincoln's Inn.

Whilst Lincoln's Inn Fields took rank amongst the most aristocratic quarters of the town, it was as disorderly a square as could be found in all London. Royal suggestions, the labors of a learned committee especially appointed by James I. to decide on a proper system of architecture, and Inigo Jones's magnificent but abortive scheme had but a poor result. In Queen Anne's reign, and for twenty years later, the open space of the fields was daily crowded with beggars, mountebanks, and noisy rabble: and it was the scene of constant uproar and frequent riots. As soon as a nobleman's coach drew up before one of the surrounding mansions, a mob of half-naked rascals swarmed about the equipage, asking for alms in alternate tones of entreaty and menace. Pugilistic encounters, and fights resembling the faction-fights of an Irish row, were of daily occurrence there; and when the rabble decided on torturing a bull with dogs, the wretched beast was tied to a stake in the center of the wide area, and their baited in the presence of a ferocious multitude, and to the diversion of fashionable ladies, who watched the scene from their drawing-room windows. The Sacheverell outrage was wildest in this chosen quarter of noblemen and blackguards; and in George II.'s reign, when Sir Joseph Jekyll, the Master of the Rolls, made himself odious to the lowest class by his Act for laying an excise upon gin, a mob assailed him in the middle of the fields, threw him to the ground, kicked him over and over, and savagely trampled upon him. It was a marvel that he escaped with his life; but with characteristic good humor, he soon made a joke of his ill-usage, saying that until the mob made him their football he had never been master of *all* the *rolls*. Soon after this outbreak of popular violence, the inhabitants enclosed the middle of the area with palisades, and turned the enclosure into an ornamental garden. De-

scribing the Fields in 1736, the year in which the obnoxious Act concerning gin became law, James Ralph says, "Several of the original houses still remain, to be a reproach to the rest; and I wish the disadvantageous comparison had been a warning to others to have avoided a like mistake. . . . . But this is not the only quarrel I have to Lincoln's Inn Fields; the area is capable of the highest improvement, might be made a credit to the whole city, and do honor to those who live round it; whereas at present no place can be more contemptible or forbidding; in short, it serves only as a nursery for beggars and thieves, and is a daily reflection on those who suffer it to be in its abandoned condition."

During the eighteenth century, a tendency to establish themselves in the western portion of the town was discernible amongst the great law lords. For instance, Lord Cowper, who during his tenure of the seals resided in Powis House, during his latter years occupied a mansion in Great George Street, Westminster—once a most fashionable locality, but now a street almost entirely given up to civil engineers, who have offices there, but usually live elsewhere. In like manner, Lord Harcourt, moving westwards from Lincoln's Inn Fields, established himself in Cavendish Square. Lord Henley, on retiring from the family mansion in Lincoln's Inn Fields, settled in Grosvenor Square. Lord Camden lived in Hill Street, Berkeley Square. On being entrusted with the sole custody of the seals, Lord Apsley (better known as Lord Chancellor Bathurst) made his first stage-progress to Westminster Hall from his house in Dean Street, Soho; but afterwards moving farther west, he built Apsley House (familiar to every Englishman as the late Duke of Wellington's town mansion) upon the site of Squire Western's favorite inn—the "Hercules' Pillars."

## CHAPTER XXII.

FIFTEEN years since the writer of this page used to dine with a conveyancer—a lawyer of an old and almost obsolete school—who had a numerous household, and kept a hospitable table in Lincoln's Inn Fields; but the conveyancer was almost the last of his species. The householding legal *resident* of the Fields, like the domestic resident of the Temple, has become a feature of the past. Amongst the ordinary nocturnal population of the square called Lincoln's Inn Fields, may be found a few solicitors who sleep by night where they work by day, and a sprinkling of young barristers and law students who have residential chambers in grand houses that, less than a century since, were tenanted by members of a proud and splendid aristocracy; but the gentle families have by this time altogether disappeared from the mansions.

But long before this aristocratic secession, the lawyers took possession of a new quarter. The great charm of Lincoln's Inn Fields had been the freshness of the air which played over the open space. So also the recommendation of Great Queen Street had been the purity of its rural atmosphere. Built between 1630 and 1730, that thoroughfare—at present hemmed in by fetid courts and narrow passages—caught the keen breezes of Hampstead, and long maintained a character for salubrity as well as fashion. Of those fine squares and imposing streets which lie between High Holborn and Hampstead, not a stone had been laid when the ground covered by the present Freemasons' Tavern was one of the most desirable sites of the metropolis. Indeed, the houses between Holborn and Great Queen Street were not erected until the mansions on the south side of the

latter thoroughfare—built long before the northern side side—had for years commanded an unbroken view of Holborn Fields. Notwithstanding many gloomy predictions of the evils that would necessarily follow from over-building, London steadily increased, and enterprising architects deprived Lincoln's Inn Fields and Great Queen Street of their rural qualities.

Crossing Holborn, the lawyers settled on a virgin plain, beyond the ugly houses which had sprung up on the north of Great Queen Street, and on the country side of Holborn. Speedily a new quarter arose, extending from Gray's Inn on the east to Southampton Row on the west, and lying between Holborn and the line of Ormond Street. Red Lion Street, Bedford Row, Great Ormond Street, Little Ormond Street, Great James Street, and Little James Street, were amongst its best thoroughfares; in its centre was Red Lion Square, and in its northwestern corner lay Queen's Square. Steadily enlarging its boundaries, it comprised at later dates Guildford Street, John's Street, Doughty Street, Mecklenburgh Square, Brunswick Square, Bloomsbury Square, Russell Square, Bedford Square—indeed, all the region lying between Gray's Inn Lane (on the east), Tottenham Court Road (on the west), Holborn (on the south), and a line running along the north of the Foundling Hospital and "the squares." Of course this large residential district was more than the lawyers required for themselves. It became and long remained a favorite quarter with merchants, physicians,[1] and surgeons; and until a

[1] Dr. Clench lived in Brownlow Street, Holborn; and until his death in 1831, John Abernethy occupied in Bedford Row the house which is still inhabited by an eminent surgeon, who was Abernethy's favorite pupil. Of Dr. Clench's death in January, 1691–2, Narcissus Luttrell gives the following account:—"The 5th, last night, Dr. Clench, the physician, was strangled in a coach; two persons came to his house in Brownlow Street, Holborn, in a coach, and pretended to carry him to a patient's in the City; they drove backward and forward, and after some time stopt by Leadenhall, and sen

recent date it comprised the mansions of many leading members of the aristocracy. But from its first commencement it was so intimately associated with the legal profession that it was often called the "law quarter;" and the writer of this page has often heard elderly ladies and gentlemen speak of it as the "old law quarter."

Although lawyers were the earliest householders in this new quarter, its chief architect encountered at first strong opposition from a section of the legal profession. Anxious to preserve the rural character of their neighborhood, the gentlemen of Gray's Inn were greatly displeased with the proposal to lay out Holborn Fields in streets and squares. Under date June 10, 1684, Narcissus Luttrell wrote in his diary:—"Dr. Barebone, the great builder, having some time since bought the Red Lyon Fields, near Graie's Inn walks, to build on, and having for that purpose employed severall workmen to goe on with the same, the gentlemen of Graie's Inn took notice of it, and, thinking it an injury to them, went with a considerable body of 100 persons; upon which the workmen assaulted the gentlemen, and flung bricks at them, and the gentlemen at them again. So a sharp engagement ensued, but the gentlemen routed them at last, and brought away one or two of the workmen to Graie's Inn; in this skirmish one or two of the gentlemen and servants of the house were hurt, and severall of the workmen."

James Ralph's remarks on the principal localities of this district are interesting. "Bedford Row," he says,

the coachman to buy a couple of fowls for supper, who went, accordingly; and in the mean time they slipt away; and the coachman when he returned found Dr. Clench with a handkerchief tyed about his neck, with a hard sea-coal twisted in it, and clapt against his windwipe; he had spirits applied to him and other means, but too late, he having been dead some time." Dr. Clench's murderer—one Mr. Harrison, a man of gentle condition—was apprehended, tried, found guilty, and hung in chains.

"is one of the most noble streets that London has to boast of, and yet there is not one house in it which deserves the least attention." He tells us that "Ormond-street is another place of pleasure, and that side of it next the Fields is, beyond question, one of the most charming situations about town." This "place of pleasure" is now given up for the most part to hospitals and other charitable institutions, and to lodging-houses of an inferior sort. Passing on to Bloomsbury-square, and speaking of the Duke of Bedford's residence, which stood on the north side of the square, he says: "Then behind it has the advantage of most agreeable gardens, and a view of the country, which would make a retreat from the town almost unnecessary, beside the opportunity of exhibiting another prospect of the building, which would enrich the landscape, and challenge new approbation." This was written in 1736. At that time the years of two generations were appointed to pass away ere the removal of Bedford House should make way for Lower Bedford-place, leading into Russell-square.

So late as the opening years of George III.'s reign, Queen's-square enjoyed an unbroken prospect in the direction of Highgate and Hampstead. "The Foreigner's Guide: or a Necessary and Instructive Companion both to the Foreigner and Native, in their Tours through the Cities of London and Westminster" (1763), contains the following passage:—"Queen's-square, which is pleasantly situated at the extreme part of the town, has a fine open view of the country, and is handsomely built, as are likewise the neighboring streets—viz: Southampton-row, Ormond-street, &c. In this last is Powis House, so named from the Marquis of Powis, who built the present stately structure in the year 1713. It is now the town residence of the Earl of Hardwicke, late Lord Chancellor. The apartments are noble, and the

whole edifice is commendable for its situation, and the fine prospect of the country. Not far from thence is Bloomsbury-square. This square is commendable for its situation and largeness. On the north side is the house of the Duke of Bedford. This building was erected from a design of Inigo Jones, and is very elegant and spacious." From the duke's house in Bloomsbury-square and his surrounding property, the political party, of which he was the chief, obtained the nickname of the Bloomsbury Gang.

Chief Justice Holt died March 5, 1710, at his house[1] in Bedford-row. In Red Lion-square Chief Justice Raymond had the town-mansion, wherein he died on April 15, 1733; twelve years after Sir John Pratt, Lord Camden's father, died at his house in Ormond-street. On December 15, 1761, Chief Justice Willes died at his house in Bloomsbury-square. Chagrin at missing the seals through his own arrogance, when they had been actually offered to him, was supposed to be a principal cause of the Chief Justice's death. His friends represented that he died of a broken heart; to which assertion flippant enemies responded that no man ever had a heart after living seventy-four years. Murray for many years inhabited a handsome house in Lincoln's Inn Fields; but his name is more generally associated with Bloomsbury-square, where stood the house which was sacked and burned by the Gordon rioters. In Bloomsbury-square our grandfathers used to lounge, watching the house of Edward Law, subsequently Lord Ellenborough, in the hope of seeing Mrs. Law, as she watered the flowers of her balcony. Mrs. Law's maiden name

[1] Holt's country seat was Redgrave Hall, formerly the home of the Bacons. It was on his manor of Redgrave that Sir Nicholas Bacon entertained Queen Elizabeth when she remarked that her Lord Keeper's house was too small for him, and he answered—"Your Majesty has made me too great for my house."

was Towry, and, as a beauty, she remained for years the rage of London. Even at this date there remain a few aged gentlemen whose eyes sparkle and whose cheeks flush when they recall the charms of the lovely creature who became the wife of ungainly Edward Law, after refusing him on three separate occasions.

On becoming Lord Ellenborough and Chief Justice, Edward Law moved to a great mansion in St. James's-square, the size of which he described to a friend by saying: "Sir, if you let off a piece of ordnance in the hall, the report is not heard in the bed-rooms." In this house the Chief Justice expired, on December 13, 1818. Speaking of Lord Ellenborough's residence in St. James's-square, Lord Campbell says: "This was the first instance of a common-law judge moving to the 'West End.' Hitherto all the common-law judges had lived within a radius of half a mile from Lincoln's Inn; but they are now spread over the Regent's Park, Hyde Park Gardens, and Kensington Gore."

Lord Hardwicke and Lord Thurlow have been more than once mentioned as inhabitants of Ormond-street.

Eldon's residence may be noticed with advantage in this place. On leaving Oxford and settling in London, he took a small house for himself and Mrs. Scott in Cursitor-street, Chancery-lane. About this dwelling he wrote to his brother Henry:—"I have got a house barely sufficient to hold my small family, which (so great is the demand for them here) will, in rent and taxes, cost me annually sixty pounds." To this house he used to point in the days of his prosperity, and, in allusion to the poverty which he never experienced, he would add, "There was my first perch. Many a time have I run down from Cursitor-street to Fleet Market and bought sixpenn'orth of sprats for our supper." After leaving Cursitor-street he lived in Cary-street, Lincoln's Inn

Fields. where also, in his later years, he believed himself to have endured such want of money that he and his wife were glad to fill themselves with sprats. When he fixed this anecdote upon Cary-street, the old Chancellor used to represent himself as buying the sprats in Clare Market instead of Fleet Market. After some successful years he moved his household from the vicinity of Lincoln's Inn, and took a house in the law quarter, selecting one of the roomy houses (No. 42) of Gower-street, where he lived when as Attorney General he conducted the futile prosecutions of Hardy, Horne Tooke, and Thelwall, in 1794.

On quitting Gower-street, Eldon took the house in Bedford-square, which witnessed so many strange scenes during his tenure of the seals, and also during his brief exclusion from office. In Bedford-square he played the part of chivalric protector to the Princess of Wales, and chuckled over the proof-sheets of that mysterious "book" by the publication of which the injured wife and the lawyer hoped to take vengeance on their common enemy. There the Chancellor, feeling it well to protract his flirtation with the Princess of Wales, entertained her in the June of 1808, with a grand banquet, from which Lady Eldon was compelled by indisposition to be absent. And there, four years later, when he was satisfied that her Royal Highness's good opinion could be of no service to him, the crafty, self-seeking minister gave a still more splendid dinner to the husband whose vices he had professed to abhor, whose meanness of spirit he had declared the object of his contempt. "However," writes Lord Campbell, with much satiric humor, describing this alliance betweeen the selfish voluptuary and the equally selfish lawyer, "he was much comforted by having the honor, at the prorogation, of entertaining at dinner his Royal Highness the Regent, with whom he was now

a special favorite, and who, enjoying the splendid hospitality of Bedford-square, forgot that the Princess of Wales had sat in the same room—at the same table—on the same chair—had drunk of the same wine—out of the same cup—while the conversation had turned on her barbarous usage, and the best means of publishing to the world *her* wrongs and *his* misconduct."

Another of the Prince Regent's visits to Bedford-square is surrounded with comic circumstances and associations. In the April of 1815, a mastership of chancery became vacant by the death of Mr. Morris: and forthwith the Chancellor was assailed with entreaties from every direction for the vacant post. For two months Eldon, pursuing that policy of which he was a consummate master, delayed to appoint; but on June 23, he disgusted the bar and shocked the more intelligent section of London society by conferring the post on Jekyll, the courtly *bon vivant* and witty descendent of Sir Joseph Jekyll, Master of the Rolls. Amiable, popular, and brilliant, Jekyll received the congratulations of his numerous personal friends; but beyond the circle of his private acquaintance the appointment created lively dissatisfaction—dissatisfaction which was heightened rather than diminished by the knowledge that the placeman's good fortune was entirely due to the personal importunity of the Prince Regent, who called at the Chancellor's house, and having forced his way into the bed-room, to which Eldon was confined with an attack of gout, refused to take his departure without a promise that his friend should have the vacant place. How this royal influence was applied to the Chancellor is told in the "Anecdote Book."

Fortunately Jekyll was less incompetent for the post than his enemies had declared, and his friends admitted. He proved a respectable master, and held his post until age and sickness compelled him to resign it; and then, sus-

tained in spirits by the usual retiring pension, he sauntered on right mirthfully into the valley of the shadow of death. On the day after his retirement, the jocose veteran, meeting Eldon in the street, observed—"Yesterday, Lord Chancellor, I was your master; to-day I am my own."

From Bedford-square, Lord Eldon, for once following the fashion, moved to Hamilton-place, Piccadilly. With the purpose of annoying him, the "Queen's friend," during the height of the "Queen Caroline agitation," proposed to buy the house adjoining the Chancellor's residence in Hamilton-place, and to fit it up for the habitation of that not altogether meritorious lady. Such an arrangement would have been an humiliating as well as exasperating insult to a lawyer who, as long as the excitement about the poor woman lasted, would have been liable to affront whenever he left his house or looked through the windows facing Hamilton-place. The same mob that delighted in hallooing round whatever house the Queen honored with her presence, would have varied their "hurrahs" for the lady with groans for the lawyer who after making her wrongs the stalking-horse of his ambition, had become one of her chief oppressors. Eldon determined to leave Hamilton-place on the day which should see the Queen enter it; and hearing that the Lords of the Treasury were about to assist her with money for the purchase of the house, he wrote to Lord Liverpool, protesting against an arrangement which would subject him to annoyance at home and to ridicule out of doors. "I should," he wrote, "be very unwilling to state anything offensively, but I can not but express my confidence that Government will not aid a project which must remove the Chancellor from his house the next hour that it takes effect, and from his office at the same time." This decided attitude caused the Government to withdraw their countenance from the project; whereupon a

public subscription was opened for its accomplishment. Sufficient funds were immediately proffered: and the owner of the mansion had verbally made terms with the patriots, when the Chancellor, outbidding them, bought the house himself. "I had no other means," he wrote to his daughter, "of preventing the destruction of my present house as a place in which I could live, or which anybody else would take. The purchase money is large, but I have already had such offers, that I shall not, I think, lose by it."

Russell-square—where Lord Loughborough (who knows aught of the Earl of Rosslyn?) had his town house, after leaving Lincoln's Inn Fields, and where Charles Abbott (Lord Tenterden) established himself on leaving the house in Queen-square, into which he married during the summer of 1795—maintained a quasi-fashionable repute much later than the older and therefore more interesting parts of the "old law quarter." Theodore Hook's disdain for Bloomsbury is not rightly appreciated by those who fail to bear in mind that the Russell-square of Hook's time was tenanted by people who—though they were unknown to "fashion," in the sense given to the word by men of Brummel's habits and tone—had undeniable status amongst the aristocracy and gentry of England. With some justice the witty writer has been charged with snobbish vulgarity, because he ridiculed humble Bloomsbury for being humble. His best defense is found in the fact that his extravagant scorn was not directed at helpless and altogether obscure persons so much as at an educated and well-born class who laughed at his caricatures, and gave dinners at which he was proud to be present. Though it fails to clear the novelist of the special charge, this apology has a certain amount of truth, and in so far as it palliates some of his offenses against good taste and gentle feeling, by all means let

him have the full benefit of it. Criticism can afford to be charitable to the clever, worthless man, now that no one admires or tries to respect him. Again it may be advanced, in Hook's behalf, that political animosity—a less despicable, though not less hurtful passion than love of gentility—contributed to Hook's dislike of the quarter on the north side of Holborn. As a humorist he ridiculed, as a panderer to fashionable prejudices he sneered at, Bloomsbury; but as a Tory he cherished a genuine antagonism to the district of town that was associated in the public mind with the wealth and ascendency of the house of Bedford. Anyhow, the Russell-square neighborhood—although it was no longer fashionable, as Belgravia and Mayfair are fashionable at the present day—remained the locality of many important families, at the time when Mr. Theodore Hook was pleased to assume that no one above the condition of a rich tradesman or second-rate attorney lived in it. Of the lawyers whose names are mournfully associated with the square itself are Sir Samuel Romilly and Sir Thomas Noon Talfourd. In 1818, the year of his destruction by his own hand, Sir Samuel Romilly lived there; and Talfourd had a house on the east side of the square up to the time of his lamented death in 1854.

That Theordore Hook's ridicule at Bloomsbury greatly lessened for a time the value of its houses there is abundant evidence. When he deluged the district with scornful satire, his voice was a social power, to which a considerable number of honest people paid servile respect. His clever words were repeated; and Bloomsbury having become a popular by-word for contempt, aristocratic families ceased to live, and were reluctant to invest money, in its well-built mansions. But Hook only accelerated a movement which had for years been steadily though silently making progress. Erskine knew Red

Lion-square when every house was occupied by a lawyer of wealth and eminence, if not of titular rank; but before he quitted the stage, barristers had relinquished the ground in favor of opulent shopkeepers. When an ironmonger became the occupant of a house in Red Lion-square, on the removal of a distinguished counsel, Erskine wrote the epigram—

> "This house, where once a lawyer dwelt,
> Is now a smith's—alas!
> How rapidly the iron age
> Succeeds the age of brass."

These lines point to a minor change in the social arrangements of London, which began with the century, and was still in progress when Erskine had for years been moldering in his grave. In 1823, the year of Erskine's death, Chief Baron Richards expired in his town-house, in Great Ormond-street. In the July of the following year, Baron Wood—*i. e.*, George Wood, the famous special pleader—died at his house in Bedford-square, about seventeen months after his resignation of his seat in the Court of Exchequer to John Hullock.

At the present time the legal fraternity has deserted Bloomsbury. The last of the judges to depart was Chief Baron Pollock, who sold his great house in Queen-square at a quite recent date. With the disappearance of this venerable and universally respected judge, the legal history of the neighborhood may be said to have closed. Some wealthy solicitors still live in Russell-square and the adjoining streets; a few old-fashioned barristers still linger in Upper Bedford-place and Lower Bedford-place. Guildford-street and Doughty-street, and the adjacent thoroughfares of the same class, still number a sprinkling of rising juniors, literary barristers, and fairly prosperous attorneys. Perhaps the ancient aroma of the "old law quarter"—Mesopotamia, as it is

now disrespectfully termed—is still strong and pleasant enough to attract a few lawyers who cherish a sentimental fondness for the past. A survey of the Post Office Directory creates an impression that, compared with other neighborhoods, the district north and northeast of Bloomsbury-square still possesses more than an average number of legal residents; but it no longer remains the quarter of the lawyers.

There still resides in Mecklenburgh-square a learned Queen's Counsel, for whose preservation the prayers of the neighborhood constantly ascend. To his more scholarly and polite neighbors this gentleman is an object of intellectual interest and anxious affection. As the last of an extinct species, as a still animate Dodo, as a lordly Mohican who has outlived his tribe, this isolated counselor of Her Gracious Majesty is watched by heedful eyes whenever he crosses his threshold. In the morning, as he paces from his dwelling to chambers, his way down Doughty-street and John-street, and through Gray's Inn Gardens, is guarded by men anxious for his safety. Shreds of orange peel are whisked from the pavement on which he is about to tread; and when he crosses Holborn he walks between those who would imperil their lives to rescue him from danger. The gatekeeper in Doughty-street daily makes him low obeisance, knowing the historic value and interest of his courtly presence. Occasionally the inhabitants of Mecklenburgh-square whisper a fear that some sad morning their Q. C. may flit away without giving them a warning. Long may it be before the residents of the "Old Law Quarter" shall wail over the fulfillment of this dismal anticipation!

# V.

# LOVES OF THE LAWYERS.

## CHAPTER XXIII.

"I WOULD compare the multitude of women which are to be chosen for wives unto a bag full of snakes, having among them a single eel; now if a man should put his hand into this bag, he may chance to light on the eel; but it is an hundred to one he shall be stung by a snake."

These words were often heard from the lips of that honest judge, Sir John More, whose son Thomas stirred from brain to foot by the bright eyes, and snowy neck, and flowing locks of *cara Elizabetha* (the *cara Elizabetha* of a more recent Tom Moore was "Bessie, my darling") —penned those warm and sweet-flowing verses which delight scholars of the present generation, and of which the following lines are neither the least musical nor the least characteristic:—

"Jam subit illa dies quæ ludentem obtulit olim
Inter virgineos te mihi prima choros.
Lactea cum flavi decuerunt colla capilli,
Cum gena par nivibus visa, labella rosis;
Cum tua perstringunt oculos duo sydera nostros
Perque oculos intrant in mea corda meos."

The goddess of love played the poet more than one droll trick. Having approached her with musical flattery, he fled from her with fear and abhorrence. For a time the holiest and highest of human affections was to

his darkened mind no more than a carnal appetite; and he strove to conquer the emotions which he feared would rouse within him a riot of impious passions. With fasting and cruel discipline he would fain have killed the devil that agitated him, whenever he passed a pretty girl in the street. As a lay Carthusian, he wore a hair-shirt next his skin, disciplined his bare back with scourges, slept on the cold ground or a hard bench, and by a score other strong measures sought to preserve his spiritual by ruining his bodily health. But nature was too powerful for unwholesome doctrine and usage, and before he rashly took a celibatic vow, he knelt to fair Jane Colt—and, rising, kissed her on the lips.

When spiritual counsel had removed his conscientious objections to matrimony, he could not condescend to marry for love, but must, forsooth, choose his wife in obedience to considerations of compassion and mercy. Loving her younger sister, he paid his addresses to Jane, because he shrunk from the injustice of putting the junior above the elder of the two girls. "Sir Thomas having determined, by the advice and direction of his ghostly father, to be a married man, there was at that time a pleasant conceited gentleman of an ancient family in Essex, one Mr. John Colt, of New Hall, that invited him into his house, being much delighted in his company, proffering unto him the choice of any of his daughters, who were young gentlewomen of very good carriage, good complexions, and very religiously inclined; whose honest and sweet conversation and virtuous education enticed Sir Thomas not a little; and although his affection most served him to the second, for that he thought her the fairest and best favored, yet when he thought within himself that it would be a grief and some blemish to the eldest to have the younger sister preferred before her, he, out of a kind compassion, settled his fancy upon the

eldest, and soon after married her with all his friends' good liking."

The marriage was a fairly happy union, but its duration was short. After giving birth to four children, Jane died, leaving the young husband, who had instructed her sedulously, to mourn her sincerely. That his sorrow was poignant may be easily believed; for her death deprived him of a docile pupil, as well as a dutiful wife.

"Virginem duxit admodem puellam," Erasmus says of his friend, "claro genere natum, rudem adhuc utpote ruri inter parentes ac sorrores semper habitam, quo magis illi liceret illam ad suos mores fingere. Hanc et literis instruendam curavit, et omni musices genere doctam reddidit." Here is another insight into the considerations which brought about the marriage. When he set out in search of a wife, he wished to capture a simple, unsophisticated, untaught country girl, whose ignorance of the world should incline her to rely on his superior knowledge, and the deficiencies of whose intellectual training should leave him an ample field for educational experiments. Seeking this he naturally turned his steps towards the eastern counties; and in Essex he found the young lady, who to the last learnt with intelligence and zeal the lessons which he set her.

More's second choice of a wife was less fortunate than his first. Wanting a woman to take care of his children and preside over his rather numerous establishment, he made an offer to a widow, named Alice Middleton. Plain and homely in appearance and taste, Mistress Alice would have been invaluable to Sir Thomas as a superior domestic servant, but his good judgment and taste deserted him when he decided to make her a closer companion. Bustling, keen, loquacious, tart, the good dame scolded servants and petty tradesmen with admirable effect; but even at this distance of time the sensitive ear

is pained by her sharp, garrulous tongue, when its acerbity and virulence are turned against her pacific and scholarly husband. A smile follows the recollection that he endeavored to soften her manners and elevate her nature by a system of culture similar to that by which Jane Colt, "admodum puella," had been formed and raised into a polished gentlewoman. Past forty years of age, Mistress Alice was required to educate herself anew, Erasmus assures his readers that, "though verging on old age, and not of a yielding temper," she was prevailed upon "to take lessons on the lute, the cithara, the viol, the monochord, and the flute, which she daily practiced to him."

It has been the fashion with biographers to speak bitterly of this poor woman, and to pity More for his cruel fate in being united to a termagant. No one has any compassion for her. Sir Thomas is the victim; Mistress Alice the shrill virago. In these days, when every historic reprobate finds an apologist, is there no one to say a word in behalf of the Widow Middleton, whose lot in life and death seems to this writer very pitiable? She was quick in temper, slow in brain, domineering, awkward. To rouse sympathy for such a woman is no easy task; but if wretchedness is a title to compassion, Mistress Alice has a right to charity and gentle usage. It *was not* her fault that she could not sympathize with her grand husband, in his studies and tastes, his lofty life and voluntary death; it *was* her misfortune that his steps traversed plains high above her own moral and intellectual level. By social theory they were intimate companions; in reality, no man and woman in all England were wider apart. From his elevation he looked down on her with commiseration that was heightened by curiosity and amazement; and she daily writhed under his gracious condescension and passionless urbanity; under

her own consciousness of inferiority and consequent self-scorn. He could no more sympathize with her petty aims, than she with his high views and ambitions; and conjugal sympathy was far more necessary to her than to him. His studious friends and clever children afforded him an abundance of human fellowship; his public cares and intellectual pursuits gave him constant diversion. He stood in such small need of her, that if some benevolent fairy had suddenly endowed her with grace, wisdom, and understanding, the sum of his satisfaction would not have been perceptibly altered. But apart from him she had no sufficient enjoyments. His genuine companionship was requisite for her happiness; but for this society nature had endowed her with no fitness. In the case of an unhappy marriage, where the unhappiness is not caused by actual misconduct, but is solely due to incongruity of tastes and capacities, it is cruel to assume that the superior person of the ill-assorted couple has the stronger claim to sympathy.

Finding his wife less tractable than he wished, More withheld his confidence from her, taking the most important steps of his life, without either asking for her advice, or even announcing the course which he was about to take. His resignation of the seals was announced to her on the day *after* his retirement from office, and in a manner which, notwithstanding its drollery, would greatly pain any woman of ordinary sensibility. The day following the date of his resignation was a holiday; and in accordance with his usage, the ex-Chancellor, together with his household, attended service in Chelsea Church. On her way to church Lady More returned the greetings of her friends with a stateliness not unseemly at that ceremonious time in one who was the lady of the Lord High Chancellor. At the conclusion of service, ere she left her pew, the intelligence was broken to her in a jest that

she had lost her cherished dignity. "And whereas upon the holydays during his High Chancellorship one of his gentlemen, when the service of the church was done, ordinarily used to come to my lady his wife's pew-door, and say unto her, "*Madam, my lord is gone,*" he came into my lady his wife's pew himself, and making a low courtesy, said unto her, "Madam, my lord is gone," which she, imagining to be but one of his jests, as he used many unto her, he sadly affirmed unto her that it was true. This was the way he thought fittest to break the matter unto his wife, who was full of sorrow to hear it."

Equally humorous and pathetic was that memorable interview between More and his wife in the Tower, when she, regarding his position by the lights with which nature had endowed her, counseled him to yield even at that late moment to the king. "What the goodyear, Mr. More!" she cried, bustling up to the tranquil and courageous man. "I marvel that you, who have been hitherto always taken for a wise man, will now so play the fool as to lie here in this close, filthy prison, and be content to be shut up thus with mice and rats, when you might be abroad at your liberty, with the favor and good-will both of the king and his council, if you would but do as the bishops and best learned of his realm have done; and, seeing you have at Chelsea a right fair house, your library, your books, your gallery, and all other necessaries so handsome about you, where you might, in company with me, your wife, your children, and household, be merry, I muse what, in God's name, you mean, here thus fondly to tarry." Having heard her out—preserving his good-humor, he said to her, with a cheerful countenance, "I pray thee, good Mrs. Alice, tell me one thing!" "What is it," saith she. "Is not this house as near heaven as my own?"

Sir Thomas More was looking towards heaven.

Mistress Alice had her eye upon the "right fair house" at Chelsea.

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## CHAPTER XXIV.

AMONGST the eminent men who are frequently mentioned as notorious suitors for the personal affection of Queen Elizabeth, a conspicuous place is awarded to Hatton, by the scandalous memoirs of his time, and the romantic traditions of later ages. Historians of the present generation have accepted without suspicion the story that Hatton was Elizabeth's amorous courtier, that the fanciful letters of "Lydds" were fervent solicitations for response to his passion, that he won her favor and his successive promotions by timely exhibition of personal grace and steady perseverance in flattery. Campbell speaks of the Queen and her chancellor as "lovers;" and the view of the historian has been upheld by novelists and dramatic writers.

The writer of this page ventures to reject a story which is not consistent with truth, and casts a dark suspicion on her who was not more powerful as a queen than virtuous as a woman.

For illustrations of lover's pranks amongst the Elizabethan lawyers, the reader must pass to two great judges, the inferior of whom was a far greater man than Christopher Hatton. Rivals in law and politics, Bacon and Coke were also rivals in love. Having wooed the same proud, lovely, capricious, violent woman, the one was blessed with failure, and the other was cursed with success.

Until a revolution in the popular estimate of Bacon was effected by Mr. Hepworth Dixon's vindication of that great man, it was generally believed that love was no appreciable element in his nature. Delight in vain display occupied in his affection the place which should have been held by devotion to womanly beauty and goodness; he had sneered at love in an essay, and his cold heart never rebelled against the doctrine of his clever brain; he wooed his notorious cousin for the sake of power, and then married Alice Barnham for money. Such was the theory, the most solid foundation of which was a humorous treatise,[1] misread and misapplied.

The lady's wealth, rank, and personal attractions were in truth the only facts countenancing the suggestion that Francis Bacon proffered suit to his fair cousin from interested motives. Notwithstanding her defects of temper, no one denies that she was a woman qualified by nature to rouse the passions of man. A wit and beauty, she was mistress of the arts which heighten the powers of feminine tact and loveliness. The daughter of Sir Thomas Cecil, the grandchild of Lord Burleigh, she was Francis Bacon's near relation; and though the Cecils were not inclined to help him to fortune, he was nevertheless one of their connection, and consequently often found himself in familiar conversation with the

[1] To readers who have no sense of humor and irony, the essay "Of Love" unquestionably gives countenance to the theory that Francis Bacon was cold and passionless in all that concerned woman. Of the many strange constructions put upon this essay, not the least amusing and perverse is that which would make it a piece of adroit flattery to Elizabeth, who never permitted love "to check with business," though she is represented to have used it as a diversion in idle moments. If Sir Thomas More's "Utopia" had been published a quarter of a century after 1518 (the date of its appearance), a similar construction would have been put on the passage which urges that lovers should not be bound by an indissoluble tie of wedlock, until mutual inspection had satisfied each of the contracting parties that the other does not labor under any grave personal defect. If it were possible to regard the passage containing this proposal as an interpolation in the original romance, it might then be regard as an attempt to palliate Henry VIII.'s conduct to Anne of Cleves.

bright and fascinating woman. Doubtless she played with him, persuading herself that she merely treated him with cousinly cordiality, when she was designedly making him her lover. The marvel was that she did not give him her hand; that he sought it is no occasion for surprise—or for insinuations that he coveted her wealth. Biography is by turns mischievously communicative and vexatiously silent. That Bacon loved Sir William Hatton's widow, and induced Essex to support his suit, and that rejecting him she gave herself to his enemy, we know; but history tells us nothing of the secret struggle which preceded the lady's resolution to become the wife of an unalluring, ungracious, peevish, middle-aged widower. She must have felt some tenderness for her cousin, whose comeliness spoke to every eye, whose wit was extolled by every lip. Perhaps she, like many others, had misread the essay "Of Love," and felt herself bound in honor to bring the philosopher to his knees at her feet. It is credible that from the outset of their sentimental intercourse she intended to win and then to flout him. But coquetry can not conquer the first laws of human feeling. To be a good flirt a woman must have nerve and a sympathetic nature; and doubtless the flirt in this instance paid for her triumph with the smart of a lasting wound. It is fanciful to argue that her subsequent violence and misconduct, her impatience of control and scandalous disrespect for her aged husband, may have been in some part due to the sacrifice of personal inclination which she made in accepting Coke at the entreaty of prudent and selfish relations —and to the contrast, perpetually haunting her, between what she was as Sir Edward's termagant partner, and what she might have been as Francis Bacon's wife?

She consented to a marriage with Edward Coke, but was so ashamed of her choice that she insisted on a

private celebration of their union, although Archbishop Whitgift had recently raised his voice against the scandal of clandestine weddings, and had actually forbidden them. In the face of the primate's edict the ill-assorted couple were united in wedlock, without license or publication of banns, by a country parson, who braved the displeasure of Whitgift, in order that he might secure the favor of a secular patron. The wedding-day was November 24, 1598, the bridegroom's first wife having been buried on the 24th of the previous July.[1] On learning the violation of his orders, the archbishop was so incensed that he resolved to excommunicate the offenders, and actually instituted for that purpose legal proceedings, which were not dropped until bride and bridegroom humbly sued for pardon, pleading ignorance of law in excuse of their misbehavior.

The scandalous consequences of that marriage are known to every reader who has laughed over the more pungent and comic scenes of English history. Whilst Lady Hatton gave masques and balls in the superb palace which came into her possession through marriage with Sir Christopher Hatton's nephew, Coke lived in his chambers, working at cases and writing the books which are still carefully studied by every young man who wishes to make himself master of our law. In private they had perpetual squabbles, and they quarreled with equal virulence and indecency before the world. The matri-

[1] When due allowance has been made for the difference between the usages of the sixteenth century and the present time, decency was signally violated by this marriage which followed so soon upon Mrs. Coke's death, and still sooner upon the death of Lady Hatton's famous grandfather, at whose funeral the lawyer made the first overtures for her hand. Mrs. Coke died June 27, 1598, and was buried at Huntingfield, Co. Suffolk, July 24, 1598. Lord Burleigh expired on August 4, of the same year. Coke's first marriage was not unhappy; and on the death of his wife by that union, he wrote in his note book:—"Most beloved and most excellent wife, she well and happily lived, and, as a true handmaid of the Lord, fell asleep in the Lord, and now lives and reigns in heaven." In after years he often wished most cordially that he could say *as much* for his second wife.

monial settlement of their only and ill-starred daughter was the occasion of an outbreak on the part of husband and wife, that not only furnished diversion for courtiers but agitated the council table. Of all the comic scenes connected with that unseemly *fracas*, not the least laughable and characteristic was the grand festival of reconciliation at Hatton House, when Lady Hatton received the king and queen in Holborn, and expressly forbade her husband to presume to show himself among her guests. "The expectancy of Sir Edward's rising," says a writer of the period,[1] "is much abated by reason of his lady's liberty, who was brought in great honor to Exeter House by my Lord of Buckingham from Sir William Craven's, whither she had been remanded, presented by his lordship to the king, received gracious usage, reconciled to her daughter by his Majesty, and her house in Holborn enlightened by his presence at a dinner, where there was a royal feast; and to make it more absolutely her own, express commandment given by her ladyship that neither Sir Edward Coke nor any of his servants should be admitted."[2]

[1] Strafford's Letters and Dispatches, i. 5.

[2] Lady Hatton never used her second husband's name either before or after his knighthood. A good case, touching the customary right of a married lady to bear the name, and take her title from the rank of a former husband, is that of Sir Dudley North, Charles II.'s notorious sheriff of London. The son of an English peer, he married Lady Gunning, the widow of a wealthy civic knight, and daughter of Sir Robert Cann, "a morose old merchant of Bristol"— the same magistrate whom Judge Jeffreys, in terms not less just than emphatic, unbraided for his connection with, or, to speak moderately, his connivance at, the Bristol kidnappers. It might be thought that the merchant's daughter, on her marriage with a peer's son, would be well content to relinquish the title of Lady Gunning; but Roger North tells us that his brother Dudley accepted knighthood, in order that he might avoid giving offense to the city, and also, in order that his wife might be called Lady North, and not Lady Gunning.—*Vide Life of the Hon. Sir Dudley North.* After Sir Thomas Wilde (subsequently Lord Truro) married Augusta Emma d'Este, the daughter of the Duke of Sussex and Lady Augusta Murray, that lady, of whose legitimacy Sir Thomas had vainly endeavored to convince the House of Lords, retained her maiden surname. In society she was generally known as the Princess d'Este; and the bilious satirists of the Inns of Court used to

If tradition may be credited, the law is greatly indebted to the class of women whom it was our forefathers' barbarous wont to punish with the ducking-stool. Had Coke been happy in his second marriage, it is assumed that he would have spent more time in pleasure and fewer hours at his desk, that the suitors in his court would have had less careful decisions, and that posterity would have been favored with fewer reports. If the inference is just, society may point to the commentary on Littleton, and be thankful for the lady's unhappy temper and sharp tongue. In like manner the wits of the following century maintained that Holt's steady application to business was a consequence of domestic misery. The lady who ruled his house in Bedford-row is said to have been such a virago that the Chief Justice frequently retired to his chambers, in order that he might place himself beyond reach of her voice. Amongst the good stories told of Radcliffe, the Tory physician, is the tradition of his boast that he kept Lady Holt alive out of pure political animosity to the Whig Chief Justice. Another

speak of Sir Thomas as "the Prince." It was said that one of Wilde's familiar associates, soon after the lawyer's marriage, called at his house and asked if the Princess d'Este was at home. "No, sir," replied the servant, "the Princess d'Este is not at home, but the Prince is!" That this malicious story obtained a wide currency is not wonderful; that it is a truthful anecdote the writer of this book would not like to pledge his credit. The case of Sir John Campbell and Lady Stratheden was a notable instance of a lawyer and his wife bearing different names. Raised to the peerage, with the title of Baroness Stratheden, the first Lord Abinger's eldest daughter was indebted to her husband for an honor that made him her social inferior. Many readers will remember a droll story of a misapprehension caused by her ladyship's title. During an official journey, Sir John Campbell and Baroness Stratheden slept at lodgings which he had frequently occupied as a circuiteer. On the morning after his arrival, the landlady obtained a special interview with Campbell, and in the baroness's absence thus addressed him, with mingled indignation and respectfulness:—"Sir John Campbell, I am a lone widow, and live by my good name. It is not in my humble place to be too curious about the ladies brought to my lodgings by counselors and judges. It is not in me to make remarks if a counselor's lady changes the color of her eyes and her complexion every assizes. But, Sir John, a gentleman ought not to bring a lady to a lone widow's lodgings, unless so long as he 'okkupies' the apartments he makes all honorable professions that the lady is his wife, and as such gives her the use of his name."

eminent lawyer, over whose troubles people have made merry in the same fashion, was Jeffrey Gilbert, Baron of the Exchequer. At his death, October 14, 1726, this learned Judge left behind him that mass of reports, histories, and treatises by which he is known as one of the most luminous as well as voluminous of legal writers. None of his works passed through the press during his life, and when their number and value were discovered after his departure to another world, it was whispered that they had been composed in hours of banishment from a hearth where a *scolding wife* made misery for all who came within the range of her querulous notes.

Disappointed in his suit to his beautiful and domineering cousin, Bacon let some five or six years pass before he allowed his thoughts again to turn to love, and then he wooed and waited for nearly three years more, ere on a bright May day he met Alice Barnham, in Marylebone Chapel, and made her his wife in the presence of a courtly company. In the July of 1603, he wrote to Cecil:—"For this divulged and almost prostituted title of knighthood, I could, without charge by your honor's mean, be content to have it, both because of this late disgrace, and because I have three new knights in my mess in Grey's Inn Commons, and because I have found out an alderman's daughter, a handsome maiden, to my liking. So as if your honor will find the time, I will come to the court from Gorhambury upon any warning." This expression, "an alderman's daughter," contributed greatly, if it did not give rise to, the misapprehension that Bacon's marriage was a mercenary arrangement. In these later times the social status of an alderman is so much beneath the rank of a distinguished member of the bar, that a successful queen's counsel who should make an offer to the daughter of a city magistrate would be regarded as bent upon a decidedly unambitious match

and if in a significant tone he spoke of the lady as "an alderman's daughter," his words might be reasonably construed as a hint that her fortune atoned for her want of rank. But it never occurred to Bacon's contemporaries to put such a construction on the announcement. Far from using the words in an apologetic manner, the lover meant them to express concisely that Alice Barnham was a lady of suitable condition to bear a title as well as to become his bride. Cecil regarded them merely as an assurance that his relative meditated a suitable and even advantageous alliance, just as any statesman of the present day would read an announcement that a kinsman, making his way in the law courts, intended to marry "an admiral's daughter," or a "bishop's daughter." That it was the reverse of a mercenary marriage, Mr. Hepworth Dixon has indisputably proved in his eighth chapter of "The Story of Lord Bacon's Life," where he contrasts Lady Bacon's modest fortune with her husband's personal acquisitions and prospects.

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## CHAPTER XXV.

NO lawyer of the Second Charles's time surpassed Francis North in love of money, or was more firmly resolved not to marry, without due and substantial consideration.

His first proposal was for the daughter of a Gray's Inn money-lender. Usury was not a less contemptible vocation in the seventeenth century than it is at the present time; and most young barristers of gentle descent and fair prospects would have preferred any lot to the degradation of marriage with the child of the most fortunate usurer in Charles II.'s London. But the Hon-

orable Francis North was placed comfortably *beneath* the prejudices of his order and time of life. He was of noble birth, but quite ready to marry into a plebeian family: he was young, but loved money more than aught else. So his hearing was quickened and his blood beat merrily when, one fine morning, "there came to him a recommendation of a lady, who was an only daughter of an old usurer in Gray's Inn, supposed to be a good fortune in present, for her father was rich; but, after his death, to become worth, nobody could tell what." One would like to know how that "recommendation of a lady" reached the lawyer's chambers; above all, who sent it? "His lordship," continues Roger North, "got a sight of the lady, and did not dislike her; thereupon he made the old man a visit, and a proposal of himself to marry his daughter." By all means let this ingenuous, high-spirited Templar have fair judgment. He would not have sold himself to just any woman. He required a *maximum* of wealth with a *minimum* of personal repulsiveness. He therefore "took a sight of the lady" (it does not appear that he talked with her) before he committed himself irrevocably by a proposal. The *sight* having been taken, as he did not dislike her (mind, he did not positively like her) he made the old man a visit. Loving money, and believing in it, this "old man" wished to secure as much of it as possible for his only child; and therefore, looking keenly at the youthful admirer of a usurer's heiress, "asked him what estate his father intended to settle upon him for present maintenance, jointure, and provision for children." Mildly and not unjustly Roger calls this "an inaupicious question." It was so inauspicious that Mr. Francis North abruptly terminated the discussion by wishing the usurer good morning. So ended Love Affair No. 1.

Having lost his dear companion, Mr. Edward Palmer

son of the powerful Sir Geoffry Palmer, Mr. Francis North soon regarded his friend's wife with tender longing. It was only natural that he should desire to mitigate his sorrow for the dead by possession of the woman who was "left a flourishing widow, and very rich." But the lady knew her worth, as well she might, for "never was lady more closely besieged with wooers: she had no less than five younger sons sat down before her at one time, and she kept them well in hand, as they say, giving no definite answers to any one of them." Small respect did Mistress Edward Palmer show her late husband's most intimate friend. For weeks she tortured the wretched, knavish fellow with coquettish tricks, and having rendered him miserable in many ways, made him ludicrous by jilting him. "He was held at the long saw above a month, doing his duty as well as he might, and that was but clumsily; for he neither dressed nor danced, when his rivals were adroit at both, and the lady used to shuffle her favors amongst them affectedly, and on purpose to mortify his lordship, and at the same time be as civil to him, with like purpose to mortify them." Poor Mr. Francis! Well may his brother write indignantly, "It was very grievous to him—that had his thoughts upon his clients' concerns, which came in thick upon him—to be held in a course of bo-peep play with a crafty widow." At length, "after a clancular proceeding," this crafty widow, by marrying "a jolly knight of a good estate," set her victims free; and Mr. Francis was at liberty to look elsewhere for a lapful of money.

Roger North tells the story of the third affair so concisely and pithily that his exact words must be put before the reader:—"Another proposition came to his lordship," writes the fraternal biographer, giving Francis North credit for the title he subsequently won, although

at the time under consideration he was plain *Mister* North, on the keen lookout for the place of Solicitor-General, "by a city broker, from Sir John Lawrence, who had many daughters, and those reputed beauties; and the fortune was to be £6,000. His lordship went and dined with the alderman, and liked the lady, who (as the way is) was dressed out for a muster. And coming to treat, the portion shrank to £5,000, and upon that his lordship parted; and was not gone far before Mr. Broker (following) came to him, and said Sir John would give £500 more at the birth of the first child; but that would not do, for his lordship hated such screwing. Not long after this dispute, his lordship was made the king's Solicitor-General, and then the Broker came again, with news that Sir John would give £10,000. "No," his lordship said, "after such usage he would not proceed if he might have £20,000." The intervention of the broker in this negotiation is delightfully suggestive. More should have been said about him—his name, address, and terms for doing business. Was he paid for his services on all that he could save from a certain sum beyond which his employer would not advance a single gold-piece for the disposal of his child? Were there, in olden time, men who avowed themselves "Heart and Jointure Brokers, Agents for Lovers of both Sexes, Contractors of Mutual Attachments, Wholesale and Retail Dealers in Reciprocal Affection, and General Referees, Respondents, and Insurers in all Sentimental Affairs, Clandestine or otherwise?"

After these mischances, Francis North made an eligible match under somewhat singular circumstances. As co-heiresses of Thomas, Earl of Down, three sisters, the Ladies Pope, claimed under certain settlements large estates of inheritance, to which Lady Elizabeth Lee set up a counter-claim. North, acting as Lady Elizabeth Lee's coun-

sel, effected a compromise which secured half the property in dispute to his client, and diminished by one-half the fortunes to which each of the three suitors on the other side had maintained their right. Having thus reduced the estate of Lady Frances Pope to a fortune estimated at about £14,000, the lawyer proposed for her hand, and was accepted. After his marriage, alluding to his exertions in behalf of Lady Elizabeth Lee's very disputable claim, he used to say that "he had been counsel against himself;" but Roger North frankly admits that "if this question had not come to such a composition, which diminished the ladies' fortunes, his brother had never compassed his match."

It was not without reluctance that the Countess of Down consented to the union of her daughter with the lawyer who had half ruined her, and who (though he was Solicitor-General and in fine practice) could settle only £6,000 upon the lady. "I well remember," observes Roger, "the good countess had some qualms, and complained that she knew not how she could justify what she had done (meaning the marrying her daughter with no better settlement)." To these qualms Francis North, with lawyer-like coolness, answered—"Madam, if you meet with any question about that, *say* that your daughter has £1,000 per annum jointure."

The marriage was celebrated in Wroxton Church; and after bountiful rejoicings with certain loyalist families of Oxfordshire, the happy couple went up to London and lived in chambers, until they moved into a house in Chancery-lane.

It may surprise some readers of this book to learn that George Jeffreys, the odious judge of the Bloody Circuit, was a successful gallant. Tall, well-shaped, and endowed by nature with a pleasant countenance and agreeable features, Jeffreys was one of the most fascinating men of

his time. A wit and a *bon-vivant*, he could hit the humor of the roistering cavaliers who surrounded the "merry monarch;" a man of gallantry and polite accomplishments, he was acceptable to women of society. The same tongue that bullied from the bench, when witnesses were perverse or counsel unruly, could flatter with such melodious affectation of sincerity, that he was known as a most delightful companion. As a musical connoisseur he spoke with authority; as a teller of good stories he had no equal in town. Even those who detested him did not venture to deny that in the discharge of his judicial offices he could at his pleasure assume a dignity and urbane composure that well became the seat of justice. In short, his talents and graces were so various and effective, that he would have risen to the bench, even if he had labored under the disadvantage of pure morality and amiable temper.

Women declared him irresistible. At court he had the ear of Nell Gwyn and the Duchess of Portsmouth—the Protestant favorite and the Catholic mistress; and before he attained the privilege of entering Whitehall—at a time when his creditors were urgent, and his best clients were the inferior attorneys of the city courts—he was loved by virtuous girls. He was still poor, unknown, and struggling with difficulties, when he induced an heiress to accept his suit,—the daughter of a rural squire whose wine the barrister had drunk upon circuit. This young lady was wooed under circumstances of peculiar difficulty; and she promised to elope with him if her father refused to receive him as a son-in-law. Ill-luck befell the scheme; and whilst young Jeffreys was waiting in the temple for the letter which should decide his movements, an intimation reached him that elopement was impossible and union forbidden. The bearer of this bad news was a young lady—the child of a poor clergyman—

who had been the confidential friend and paid companion of the squire's daughter.

The case was hard for Jeffreys, cruel for the fair messenger. He had lost an advantageous match, she had lost her daily bread. Furious with her for having acted as the *confidante* of the clandestine lovers, the squire had turned this poor girl out of his house; and she had come to London to seek for employment as well as to report the disaster.

Jeffreys saw her overpowered with trouble and shame —penniless in the great city, and disgraced by expulsion from her patron's roof. Seeing that her abject plight was the consequence of amiable readiness to serve him, Jeffreys pitied and consoled her. Most young men would have soothed their consciences and dried the running tears with a gift of money or a letter recommending the outcast to a new employer. As she was pretty, a libertine would have tried to seduce her. In Jeffreys, compassion roused a still finer sentiment: he loved the poor girl and married her. On May 23, 1667, Sarah Neesham was married to George Jeffreys of the Inner Temple; and her father, in proof of his complete forgiveness of her *escapade*, gave her a fortune of £300—a sum which the poor clergyman could not well afford to bestow on the newly married couple.

Having outlived Sarah Neesham, Jeffreys married again —taking for his second wife a widow whose father was Sir Thomas Bludworth, ex-Lord Mayor of London. Whether rumor treated her unjustly it is impossible to say at this distance of time; but if reliance may be put on many broad stories current about the lady, her conduct was by no means free from fault. She was reputed to entertain many lovers. Jeffreys would have created less scandal if, instead of taking her to his home, he had imitated the pious Sir Mathew Hale, who married his maid-

servant, and on being twitted by the world with the lowliness of his choice, silenced his censors with a jest.

Amongst the love affairs of seventeenth-century lawyers place must be made for mention of the second wife whom Chief Justice Bramston brought home from Ireland, where she had outlived two husbands (the Bishop of Clogher and Sir John Brereton), before she gave her hand to the judge who had loved her in his boyhood. "When I see her," says the Chief Justice's son, who describes the expedition to Dublin, and the return to London, "I confess I wondered at my father's love. She was low, fatt, red-faced; her dress, too, was a hat and ruff, which tho' she never changed to death. But my father, I believe, seeing me change countenance, told me it was not beautie, but virtue, he courted. I believe she had been handsome in her youth; she had a delicate, fine hand, white and plump, and indeed proved a good wife and mother-in-law, too." On her journey to Charles I.'s London, this elderly bride, in her antiquated attire, rode from Holyhead to Beaumaris on a pillion behind her step-son. "As she rode over the sandes," records her step-son, "behind mee, and pulling off her gloves, her wedding-ringe fell off, and sunk instantly. She caused her man to alight; she sate still behind me, and kept her eye on the place, and directed her man, but he not guessing well, she leaped off, saying she would not stir without her ringe. It being the most unfortunate thinge that could befall any one to lose the wedding-ringe —made the man thrust his hand into the sands (the nature of which is not to bear any weight but passing), he pulled up sand, but not the ringe. She made him strip his arme, and put it deeper into the sand, and pulled up the ringe; and this done, he and shee, and all that stood still, were sunk almost to the knees, but we were all pleased that the ringe was found."

In the legal circle of Charles the Second's London, Lady King was notable as a virago whose shrill tongue disturbed her husband's peace of mind by day, and broke his rest at night. Earning a larger income than any other barrister of his time, he had little leisure for domestic society; but the few hours which he could have spent with his wife and children, he usually preferred to spend in a tavern, beyond the reach of his lady's sharp querulousness. "All his misfortune," says Roger North, "lay at home, in a perverse consort, who always after his day-labor done, entertained him with all the chagrin and peevishness imaginable; so that he went home as to his prison, or worse; and when the time came, rather than go home, he chose commonly to get a friend to go and sit in a free chat at the tavern, over a single bottle, till twelve or one at night, and then to work again at five in the morning. His fatigue in business, which, as I said, was more than ordinary to him, and his no comfort, or rather, discomfort at home, and taking his refreshment by excising his sleep, soon pulled him down; so that, after a short illness, he died." On his death-bed, however, he forgave the weeping woman, who, more through physical irritability than wicked design, had caused him so much undeserved discomfort; and by his last will and testament he made liberal provision for her wants. Having made his will, "he said, I am glad it is done," runs the memoir of Sir John King, written by his father, "and after took leave of his wife, who was full of tears; seeing it is the will of God, let us part quietly in friendship, with submissiveness to His will, as we came together in friendship by His will."

## CHAPTER XXVI.

A COMPLETE history of the loves of lawyers would notice many scandalous intrigues and disreputable alliances, and would comprise a good deal of literature for which the student would vainly look in the works of our best authors. From the days of Wolsey, whose amours were notorious, and whose illegitimate son became Dean of Wells, down to the present time of brighter though not unimpeachable morality, the domestic lives of our eminent judges and advocates have too frequently invited satire and justified regret. In the eighteenth century, judges, without any loss of *caste* or popular regard, openly maintained establishments that in these more decorous and actually better days would cover their keepers with obloquy. Attention could be directed to more than one legal family in which the descent must be traced through a succession of illegitimate births. Not only did eminent lawyers live openly with women who were not their wives, and with children whom the law declined to recognize as their offspring; but these women and children moved in good society, apparently indifferent to shame that brought upon them but few inconveniences. In Great Ormond-street, where a mistress and several illegitimate children formed his family circle, Lord Thurlow was visited by bishops and deans; and it is said that in 1806, when Sir James Mansfield, Chief Justice of the Common Pleas, was invited to the woolsack and the peerage, he was induced to decline the offer more by consideration for his illegitimate children than by fears for the stability of the new administration.

Speaking of Lord Thurlow's undisguised intercourse with Mrs. Hervey, Lord Campbell says, "When I first knew the profession, it would not have been endured that

any one in a judicial situation should have had such a domestic establishment as Thurlow's, but a majority of judges had married their mistresses. The understanding then was that a man elevated to the bench, if he had a mistress, must either marry her or put her away. For many years there has been no necessity for such an alternative." Either Lord Campbell had not the keen appetite for professional gossip, with which he is ordinarily credited, or his conscience must have pricked him when he wrote, "For many years there has been no necessity for such an alternative." To show how far his lordship erred through want of information or defect of candor is not the duty of this page; but without making any statement that can wound private feeling, the present writer may observe that "the understanding" to which Lord Campbell draws attention, has affected the fortunes of ladies within the present generation.

That the bright and high-minded Somers was the debauchee that Mrs. Manley and Mr. Cooksey would have us believe him is incredible. It is doubtful if Mackey, in his "Sketch of Leading Characters at the English Court" had sufficient reasons for clouding his sunny picture of the statesman with the assertion that he was "something of a libertine." But there are occasions when prudence counsels us to pay attention to slander.

Having raised himself to the office of Solicitor-General, Somers, like Francis Bacon, found an alderman's daughter to his liking; and having formed a sincere attachment for her, he made his wishes known to her father. Miss Anne Bawdon's father was a wealthy merchant, styled Sir John Bawdon—a man proud of his civic station and riches, and thinking lightly of lawyers and law. When Somers stated his property and projects, the rental of his small landed estate and the buoyancy of his professional

income, the opulent knight by no means approved the prospect offered to his child. The lawyer might die in the course of twelve months; in which case the Worcestershire estate would be still a small estate, and the professional income would cease. In twelve months Mr. Solicitor might be proved a scoundrel, for at heart all lawyers were arrant rogues; in which case matters would be still worse. Having regarded the question from these two points of view, Sir John Bawdon gave Somers his dismissal and married Miss Anne to a rich Turkey merchant. Three years later, when Somers had risen to the woolsack, and it was clear that the rich Turkey merchant would never be anything grander than a rich Turkey merchant, Sir John saw that he had made a serious blunder, for which his child certainly could not thank him. A goodly list might be made of cases where papas have erred and repented in Sir John Bawdon's fashion. Sir John Lawrence would have made his daughter a Lord Keeper's lady and a peeress, if he and his broker had dealt more liberally with Francis North. Had it not been for Sir Joseph Jekyll's counsel, Mr. Cocks, the Worcestershire squire would have rejected Philip Yorke as an ineligible suitor, in which case *plain* Mrs. Lygon would never have been Lady Hardwicke, and worked her husband's twenty purses of state upon curtains and hangings of crimson velvet. And, if he were so inclined, this writer could point to a learned judge, who in his days of "stuff" and "guinea fees" was deemed an ineligible match for a country apothecary's pretty daughter. The country doctor being able to give his daughter £20,000, turned away disdainfully from the unknown "junior," who five years later was leading his circuit, and quickly rose to the high office which he still fills to the satisfaction of his country.

Disappointed in his pursuit of Anne Bawdon, Somers

never again made any woman an offer of marriage; but scandalous gossip accused him of immoral intercourse with his housekeeper. This woman's name was Blount; and while she resided with the Chancellor fame whispered that her husband was still living. Not only was Somers charged with open adultery, but it was averred that for the sake of peace he had imprisoned in a madhouse his mistress's lawful husband, who was originally a Worcester tradesman. The chief authority for this startling imputation is Mrs. Manley, who was encouraged, if not actually paid, by Swift to lampoon his political adversaries. In her "New Atalantis"—the "Cicero" of which scandalous work was understood by its readers to signify "Lord Somers"—this shameless woman entertained quid-nuncs and women of fashion by putting this abominable story in written words, the coarseness of which accorded with the repulsiveness of the accusation.

At a time when honest writers on current politics were punished with fine and imprisonment, the pillory and the whip, statesmen and ecclesiastics were not ashamed to keep such libelers as Mrs. Manley in their pay. That the reader may fully appreciate the change which time has wrought in the tone of political literature, let him contrast the virulence and malignity of this unpleasant passage from the New Atalantis, with the tone which recently characterized the public discussions of the case which is generally known by the name of "The Edmunds Scandal."

Notwithstanding her notorious disregard of truth, it is scarcely credible that Mrs. Manley's scurrilous charge was in no way countenanced by facts. At the close of the seventeenth century to keep a mistress was scarcely regarded as an offense against good morals; and living in accordance with the fashion of the time, it is probable that Somers did that which Lord Thurlow, after an inter-

val of a century, was able to do without rousing public disapproval. Had his private life been spotless, he would doubtless have taken legal steps to silence his traducer; and unsustained by a knowledge that he dared not court inquiry into his domestic arrangements, Mrs. Manley would have used her pen with greater caution. But all persons competent to form an opinion on the case have agreed that the more revolting charges of the indictment were the baseless fictions of a malicious and unclean mind.

## CHAPTER XXVII.

IN the "Philosophical Dictionary," Voltaire, laboring under misapprehension or carried away by perverse humor, made the following strange announcement:—"Il est public en Angleterre, et on voudroit le nier en vain, que le Chancelier Cowper épousa deux femmes, qui vécurent ensemble dans sa maison avec une concorde singulière qui fit honneur à tous trois, Plusieurs curieux ont encore le petit livre que ce Chancelier composa en faveur de la Polygamie." Tickled by the extravagant crédulity or grotesque malice of this declaration, an English wit, improving upon the published words, represented the Frenchman as maintaining that the custodian of the Great Seal of England was called the *Lord Keeper*, because, by English law, he was permitted to keep as many wives as he pleased.

The reader's amusement will not be diminished by a brief statement of the facts to which we are indebted for Voltaire's assertion.

William Cowper, the first earl of his line, began life with a reputation for dissipated tastes and habits, and by unpleasant experience he learned how difficult it is to get rid of a bad name. The son of a Hertfordshire baronet,

he was still a law student when he formed a reprehensible connection with an unmarried lady of that county—Miss (or, as she was called by the fashion of the day Mistress) Elizabeth Culling, of Hertingfordbury Park. But little is known of this woman. Her age is an affair of uncertainty, and all the minor circumstances of her intrigue with young William Cowper are open to doubt and conjecture; but the few known facts justify the inference that she neither merited nor found much pity in her disgrace, and that William erred through boyish indiscretion rather than vicious propensity. She bore him two children, and he neither married her nor was required by public opinion to marry her. The respectability of their connection gave the affair a peculiar interest, and afforded countenance to many groundless reports. By her friends it was intimated that the boy had not triumphed over the lady's virtue until he had made her a promise of marriage; and some persons even went so far as to assert that they were privately married. It is not unlikely that at one time the boy intended to make her his wife as soon as he should be independent of his father, and free to please himself. Beyond question, however, is it that they were never united in wedlock, and that Will Cowper joined the Home Circuit with the tenacious fame of a scapegrace and *roué*.

That he was for any long period a man of dissolute morals is improbable: for he was only twenty-four years of age when he was called to the bar, and before his call he had married (after a year's wooing) a virtuous and exemplary young lady, with whom he lived happily for more than twenty years. A merchant's child, whose face was her fortune—Judith, the daughter of Sir Robert Booth, is extolled by biographers for reclaiming her young husband from a life of levity and culpable pleasure That he loved her sincerely from the date of their im-

prudent marriage till the date of her death, which occurred just about six months before his elevation to the woolsack, there is abundant evidence.

Judith died April 2, 1705, and in the September of the following year the Lord Keeper married Mary Clavering the beautiful and virtuous lady of the bed-chamber to Caroline Wilhelmina Dorothea, Princess of Wales. This lady was the Countess Cowper whose diary was published by Mr. Murray in the spring of 1864; and in every relation of life she was as good and noble a creature as her predecessor in William Cowper's affection. Of the loving terms on which she lived with her lord, conclusive testimony is found in their published letters and her diary. Frequently separated by his professional avocations and her duties of attendance upon the Princess of Wales, they maintained, during the periods of personal severance, a close and tender intercourse by written words: and at all other times, in sickness not less than in health, they were a fondly united couple. One pathetic entry in the countess's diary speaks eloquently of their nuptial tenderness and devotion:—"April 7th, 1716. After dinner we went to Sir Godfrey Kneller's to see a picture of my lord, which he is drawing, and is the best that was ever done for him; it is for my drawing-room, and in the same posture that he watched me so many weeks in my great illness."

Lord Cowper's second marriage was solemnized with a secrecy for which his biographers are unable to account. The event took place in September, 1706, about two months before his father's death, but it was not announced till the end of February, 1707, at which time Luttrell entered in his diary, "The Lord Keeper, who not long since was privately married to Mrs. Clavering, of the bishoprick of Durham, brough her home this day." Mr. Foss, in his "Judges of England," suggests that the con-

cealment of the union " may not improbably be explained by the Lord Keeper's desire not to disturb the last days of his father, who might perhaps have been disappointed that the selection had not fallen on some other lady to whom he had wished his son to be united." But this conjecture, notwithstanding its probability, is only a conjecture. Unless they had grave reasons for their conduct, the Lord Keeper and his lady had better have joined hands in the presence of the world, for the mystery of their private wedding nettled public curiosity, and gave new life to an old slander.

Cowper's boyish *escapade* was not forgotten by the malicious. No sooner had he become conspicious in his profession and in politics, than the story of his intercourse with Miss Culling was told in coffee-rooms with all the exaggerations that prurient fancy could devise, or enmity dictate. The old tale of a secret marriage—or, still worse, of a mock marriage—was caught from the lips of some Hertford scandal-monger, and conveyed to the taverns and drawing-rooms of London. In taking Sir Robert Booth's daughter to church, he was said to have committed bigamy. Even while he was in the House of Commons he was known by the name of " Will Bigamy ; " and that *sobriquet* clung to him ever afterwards. Twenty years of wholesome domestic intercourse with his first wife did not free him from the abominable imputation, and his marriage with Miss Clavering revived the calumny in a new form. Fools were found to believe that he had married her during Judith Booth's life, and that their union had been concealed for several years instead of a few months. The affair with Miss Culling was for a time forgotten, and the charge preferred against the keeper of the queen's conscience was bigamy of a much more recent date.

In various forms this ridiculous accusation enlivens

the squibs of the pamphleteers of Queen Anne's reign. In the "New Atalantis" Mrs. Manley certified that the fair victim was first persuaded by his lordship's sophistries to regard polygamy as accordant with moral law. Having thus poisoned her understanding, he gratified her with a form of marriage, in which his brother Spencer, in clerical disguise, acted the part of priest. It was even suggested that the bride in this mock marriage was the lawyer's ward. Never squeamish about the truth, when he could gain a point by falsehood, Swift indorsed the spiteful fabrication, and in the *Examiner*, pointing at Lord Cowper, wrote—"This gentleman, knowing that marriage fees were a considerable perquisite to the clergy, found out a way of improving them cent. per cent. for the benefit of the Church. His invention was to marry a second wife while the first was alive; convincing her of the lawfulness by such arguments as he did not doubt would make others follow the same example. *These he had drawn up in writing with intention to publish for the general good, and it is hoped he may now have leisure to finish them.*" It is possible that the words in italics were the cause of Voltaire's astounding statement: "Plusieurs curieux ont encore le petit livre que ce Chancelier composa en faveur de la Polygamie." On this point Lord Campbell, confidently advancing an opinion which can scarcely command unanimous assent, says, "The fable of the '*Treatise*' is evidently taken from the panegyric on 'a pluralty of wives,' which Mrs. Manley puts into the mouth of Lord Cowper, in a speech supposed to be addressed by Hernando to Louisa." But whether Voltaire accepted the "New Atalantis," or the *Examiner*, as an authority for the statements of his very laughable passage, it is scarcely credible that he believed himself to be penning the truth. The most reasonable explanation of the matter appears to be, that tickled by

Swift's venomous lines, the sarcastic Frenchman in malice and gayety adopted them, and added to their piquancy by the assurance that the Chancellor's book was not only published, but was preserved by connoisseurs as a literary curiosity.

Like his elder brother, the Chancellor, Spencer Cowper married at an early age, lived to wed a second wife, and was accused of immorality that was foreign to his nature. The offense with which the younger Cowper was charged, created so wide and profound a sensation, and gave rise to such a memorable trial, that the reader will like to glance at the facts of the case.

Born in 1669, Spencer Cowper was scarcely of age when he was called to the bar, and made Comptroller of the Bridge House Estate. The office, which was in the gift of the corporation of London, provided him with a good income, together with a residence in the Bridge House, St. Olave's, Southwark, and brought him in contact with men who were able to bring him briefs or recommend him to attorneys. For several years the boy-barrister was thought a singularly lucky fellow. His hospitable house was brightened by a young and lovely wife (Pennington, the daughter of John Goodeve), and he was so much respected in his locality that he was made a justice of the peace. In his profession he was equally fortunate: his voice was often heard at Westminster and on the Home Circuit, the same circuit where his brother William practiced and his family interest lay. He found many clients.

Envy is the shadow of success; and the two Cowpers were watched by men who longed to ruin them. From the day when they armed and rode forth to welcome the Prince of Orange, the lads had been notably fortunate. Notwithstanding his reputation for immorality William Cowper had sprung into lucrative practice, and in 1695

was returned to Parliament as representative for Hertford, the other seat for the borough being filled by his father, Sir William Cowper.

In spite of their comeliness and complaisant manners, the lightness of their wit and the *prestige* of their success, Hertford heard murmurs that the young Cowpers were *too* lucky by half, and that the Cowper interest was dangerously powerful in the borough. It was averred that the Cowpers were making unfair capital out of liberal professions: and when the Hertford Whigs sent the father and son to the House of Commons, the vanquished party cursed in a breath the Dutch usurper and his obsequious followers.

It was resolved to damage the Cowpers:—by fair means or foul. to render them odious in their native town.

Ere long the malcontents found a good cry.

Scarcely less odious to the Hertford Tories than the Cowpers themselves was an influential Quaker of the town, named Stout, who actively supported the Cowper interest. A man of wealth and good repute, this follower of George Fox exerted himself enthusiastically in the election contest of 1695: and in acknowledgment of his services the Cowpers honored him with their personal friendship. Sir William Cowper asked him to dine at Hertford Castle—the baronet's country residence; Sir William's son made calls on his wife and daughter. Of course these attentions from Cowper to "the Shaker" were offensive to the Tory magnates of the place: and they vented their indignation in whispers, that the young men never entered Stout's house without kissing his pretty daughter.

While these rumors were still young, Mr. Stout died, leaving considerable property to his widow, and to his only child—the beauteous Sarah; and after his death the intercourse between the two families became yet more

close and cordial. The lawyers advised the two ladies about the management of their property: and the baron gave them invitations to his London house in Hatton Garden, as well as to Hertford Castle. The friendship had disastrous consequences. Both the brothers were very fascinating men — men, moreover, who not only excelled in the art of pleasing, but, who also habitually exercised it. From custom, inclination, policy, they were very kind to the mother and daughter; probably paying the latter many compliments which they would never have uttered had they been single men. Coming from an unmarried man the speech is often significant of love, which on the lips of a husband is but the language of courtesy. But, unfortunately, Miss ("Mistress" is her style in the report of a famous trial) Sarah Stout fell madly in love with Spencer Cowper, notwithstanding the impossibility of marriage.

Not only did she conceive a dangerous fondness for him, but she openly expressed it—by speech and letters. She visited him in the Temple, and persecuted him with her embarrassing devotion whenever he came to Hertford. It was a trying position for a young man not thirty years of age, with a wife to whom he was devotedly attached, and a family whose political influence in his native town might be hurt by publication of the girl's folly. Taking his elder brother into his confidence, he asked what course he ought to pursue. To withdraw totally and abruptly from the two ladies, would be cruel to the daughter, insulting to the mother; moreover, it would give rise to unpleasant suspicions and prejudicial gossip in the borough. It was decided that Spencer must repress the girl's advances—must see her less frequently—and, by a reserved and frigid manner, must compel her to assume an appearance of womanly discretion. But the plan failed.

At the opening of the year 1699, she invited him to take up his quarters in her mother's house, when he came to Hertford at the next Spring Assizes. This invitation he declined, saying that he had arranged to take his brother's customary lodgings in the house of Mr. Barefoot, in the Market-place, but with manly consideration he promised to call upon her. "I am glad," Sarah wrote to him on March 5, 1699, "you have not quite forgot there is such a person as I in being: but I am willing to shut my eyes and not see anything that looks like unkindness in you, and rather content myself with what excuses you are pleased to make, than be inquisitive into what I must not know: I am sure the winter has been too unpleasant for me to desire the continuance of it: and I wish you were to endure the sharpness of it but for one short hour, as I have done for many long nights and days, and then I believe it would move that rocky heart of yours that can be so thoughtless of me as you are."

On Monday, March 13, following the date of the words just quoted, Spencer Cowper rode into Hertford, alighted at Mrs. Stout's house, and dined with the ladies. Having left the house after dinner, in order that he might attend to some business, he returned in the evening and supped with the two women. Supper over, Mrs. Stout retired for the night, leaving her daughter and the young barrister together. No sooner had the mother left the room, than a distressing scene ensued.

Unable to control or soothe her, Spencer gently divided the clasp of her hands, and having freed himself from her embrace, hastened from the room and abruptly left the house. He slept at his lodgings; and the next morning he was horror-struck on hearing that Sarah Stout's body had been found drowned in the mill-stream behind her old home. That catastrophe had actually occurred

Scarcely had the young barrister reached the Market-place, when the miserable girl threw herself into the stream from which her lifeless body was picked on the following morning. At the coroner's inquest which ensued, Spencer Cowper gave his evidence with extreme caution withholding every fact that could be injurious to Sarah's reputation; and the jury returned a verdict that the deceased gentlewoman had killed herself while in a state of insanity.

In deep dejection, Spencer Cowper continued the journey of the circuit.

But the excitement of the public was not allayed by the inquest and subsequent funeral. It was rumored that it was no case of self-murder, but a case of murder by the barrister, who had strangled his dishonored victim, and had then thrown her into the river. Anxious to save their sect from the stigma of suicide the Quakers concurred with the Tories in charging the young man with a henious complication of crimes. The case against Spencer was laid before Chief Justice Holt, who at first dismissed the accusation as absurd, but was afterwards induced to commit the suspected man for trial; and in the July of 1699 the charge actually came before a jury at the Hertford Assizes. Four prisoners—Spencer Cowper, two attorneys, and a law-writer—were placed in the dock on the charge of murdering Sarah Stout.

On the present occasion there is no need to recapitulate the ridiculous evidence and absurd misconduct of the prosecution in this trial: though criminal lawyers who wish to know what unfairness and irregularities were permitted in such inquiries in the seventeenth century can not do better than peruse the full report of the proceedings, which may be found in every comprehensive legal library. In this place it is enough to say that though the accusation was not sustained by a shadow of

legal testimony, the prejudice against the prisoners, both on the part of a certain section of the Hertford residents and the presiding judge, Mr. Baron Hatsel, was such that the verdict for acquittal was a disappointment to many who heard it proclaimed by the foreman of the jury. Narcissus Luttrell, indeed, says that the verdict was "to the satisfaction of the auditors;" but in this statement the diarist was unquestionably wrong, so far as the promoters of the prosecution were concerned. Instead of accepting the decision without demur, they attempted to put the prisoners again on their trial by the obsolete process of "appeal of murder;" but this endeavor proving abortive, the case was disposed of, and the prisoners' minds set at rest.

The barrister who was thus tried on a capital charge, and narrowly escaped a sentence that would have consigned him to an ignominious death, resumed his practice in the law courts, sat in the House of Commons, and rose to be a judge in the Court of Common Pleas. It is said that he "presided on many trials for murder; ever cautious and mercifully inclined—remembering the great peril which he himself had undergone."

The same writer who aspersed Somers with her unchaste thoughts, and reiterated the charge of bigamy against Lord Chancellor Cowper, did not omit to give a false and malicious version to the incidents which had acutely wounded the fine sensibilities of the younger Cowper. But enough notice has been taken of the "New Atalantis" in this chapter. To that repulsive book we refer those readers who may wish to peruse Mrs. Manley's account of Sarah Stout's death.

A distorted tradition of Sarah Stout's tragic end, and of Lord Cowper's imputed bigamy, was contributed to an early number of the "European" by a clerical authority—the Rev. J. Hinton, Rector of Alderton, in North

amptonshire. "Mrs. Sarah Stout," says the writer "whose death was charged upon Spencer Cowper, was strangled accidentally by drawing the steenkirk too tight upon her neck, as she, with four or five young persons, were at a game of romp upon the staircase but it was not done by Mr. Cowper, though one of the company. Mrs. Clavering, Lord Chancellor Cowper's second wife, whom he married during the life of his first, was there too; they were so confounded with the accident, that they foolishly resolved to throw her into the water, thinking it would pass that she had drowned herself." This charming paragraph illustrates the vitality of scandal, and at the same time shows how ludicrously rumor and tradition mistell stories in the face of evidence.

Spencer Cowper's second son, the Rev. John Cowper, D.D., was the father of William Cowper, the poet.

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## CHAPTER XXVIII.

NOTWITHSTANDING his illustrious descent Simon Harcourt raised himself to the woolsack by his own exertions, and was in no degree indebted to powerful relatives for his elevation. The son of a knight whose loyalty to the House of Stuart had impoverished his estate, he spent his student-days at Pembroke, Oxford and the Inner Temple, in resolute labor, and with few indulgences. His father could make him but a slender allowance; and when he assumed the gown of a barrister the future Chancellor, like Erskine in after years, was spurred to industry by the voices of his wife and children. While he was still an undergraduate of the university, he fell in love with Rebecca Clark, daughter of a pious man of whose vocation the modern peerages are ashamed. S

Philip Harcourt (the Chancellor's father) in spite of his loyalty quarreled with the Established Church, and joined the Presbyterians: and Thomas Clark was his Presbyterian chaplain, secretary, and confidential servant. Great was Sir Philip's wrath on learning that his boy had not only fallen in love with Rebecca Clark, but had married her privately. It is probable that the event lowered the worthy knight's esteem for the Presbyterian system; but as anger could not cut the nuptial bond the father relented—gave the young people all the assistance he could, and hoped that they would live long without repenting their folly. The match turned out far better than the old knight feared. Taking his humble bride to modest chambers, young Harcourt applied sedulously to the study of the law; and his industry was rewarded by success, and by the gratitude of a dutiful wife. In unbroken happiness they lived together for a succession of years, and their union was fruitful of children.

Harcourt fared better with his love match than Sergeant Hill with his heiress, Miss Medleycott of Cottingham, Northamptonshire. On the morning of his wedding, the eccentric sergeant, having altogether forgotten his most important engagement for the day, received his clients in chambers after his usual practice, and remained busy with professional cares until a band of devoted friends forcibly carried him to the church, where his bride had been waiting for him more than an hour. The ceremony having been duly performed, he hastened back to his chambers, to be present at a consultation. Notwithstanding her sincere affection for him, the lady proved but an indifferent wife to the black-letter lawyer. Empowered by Act of Parliament to retain her maiden name after marriage, she showed her disesteem for her husband's patronymic by her mode of exercising the privilege secured to her by special law; and many a time

the sergeant indignantly insisted that she should use his name in her signatures. "My name is Hill, madam; my father's name was Hill, madam; all the Hills have been named Hill, madam; Hill is a good name—and by ——, madam, you *shall* use it." On other matters he was more compliant—humoring her old-maidish fancies in a most docile and conciliating manner. Curiously neat and orderly, Mrs. Medleycott took great pride in the faultlessness of her domestic arrangements, so far as cleanliness and precise order were concerned. To maintain the whiteness of the pipe-clayed steps before the front door of her Bedford-square mansion was a chief object of her existence; and to gratify her in this particular, Sergeant Hill used daily to leave his premises by the kitchen steps. Having outlived the lady, Hill observed to a friend who was condoling with him on his recent bereavement, "Ay, my poor wife is gone! She was a good sort of woman —in *her* way a *very* good sort of woman. I do honestly declare my belief that in *her* way she had no equal. But —but—I'll tell you something in confidence. If ever I marry again, *I won't marry merely for money.*" The learned Sergeant died in his ninety-third year without having made a second marriage.

Like Harcourt, John Scott married under circumstances that called forth many warm expressions of censure; and, like Harcourt, he, in after life, reflected on his imprudent marriage as one of the most fortunate steps of his earlier career. The romance of the law contains few more pleasant episodes than the story of handsome Jack Scott's elopement with Bessie Surtees. There is no need to tell in detail how the comely Oxford scholar danced with the banker's daughter at the Newcastle assemblies; how his suit was at first recognized by the girl's parent's, although the Scotts were but rich "fitters," whereas Aubone Surtees, Esquire, was a banker and gentleman of

honorable descent; how, on the appearance of an aged and patrician suitor for Bessie's hand, papa and mamma told Jack Scott not to presume on their condescension, and counseled Bessie to throw her lover over and become the lady of Sir William Blackett; how Bessie was faithful, and Jack was urgent; how they had secret interviews on Tyne-side and in London, meeting clandestinely on horseback and on foot, corresponding privately by letters and confidential messengers; how, eventually, the lovers, to the consternation of "good society" in Newcastle, were made husband and wife at Blackshields, North Britain. Who is ignorant of the story? Does not every visitor to Newcastle pause before an old house in Sandhill, and look up at the blue pane which marks the window from which Bessie descended into her lover's arms?

Jack and Bessie were not punished with even that brief period of suffering and uncertainty which conscientious novelists are accustomed, for the sake of social morals, to assign to runaway lovers before the merciful guardian or tender parent promises forgiveness and a liberal allowance, paid in quarterly installments. In his old age Eldon used to maintain that their plight was very pitiable on the third morning after their rash union. "Our funds were exhausted: we had not a home to go to, and we knew not whether our friends would ever speak to us again." In this strain ran the veteran's story, which, like all other anecdotes from the same source, must be received with caution. But even the old peer, ever ready to exaggerate his early difficulties, had not enough effrontery to represent that their dejection lasted more than three days. The fathers of the bride and bridegroom soon met and came to terms, and with the beginning of the new year Bessie Scott was living in New Inn Hall, Oxford, while her husband read Vinerian Lectures, and presided over that scholastic house. The position of Scott at this

time was very singular. He was acting as substitute for Sir Robert Chambers, the Principal of New Inn Hall and Vinerian Professor of Law, who contrived to hold his university preferments, whilst he discharged the duties of a judge in India. To give an honest color to this indefensible arrangement, it was provided that the lectures read from the Vinerian Chair should be actually written by the Professor, although they were delivered by deputy. Scott, therefore, as the Professor's mouth-piece, on a salary of £60 a year, with free quarters in the Principal's house, was merely required to read a series of treatises sent to him by the absent teacher. "The law-professor," the ex-Chancellor used to relate with true Eldonian humor and *fancy*—"sent me the first lecture which I had to read immediately to the students, and which I began without knowing a single word that was in it. It was upon the statute (4 and 5 P. and M. c. 8), "of young men running away with maidens." Fancy me reading, with about 140 boys and young men all giggling at the Professor! Such a tittering audience no one ever had." If this incident really occurred on the occasion of his "first reading," the laughter must have been inextinguishable; for, of course, Jack Scott's run-away marriage had made much gossip in Oxford Common Rooms, and the singular loveliness of his girlish wife (described by an eye-witness as being "so very young as to give the impression of childhood,") stirred the heart of every undergraduate who met her in High-street.

There is no harm done by laughter at the old Chancellor's romantic fiction's about the poverty which he and his Bessie encountered, hand in hand, at the outset of life; for the laughter blinds no one to the genuine affection and wholesome honesty of the young husband and wife. One has reason to wish that marriages such as theirs were more frequent among lawyers in these

ostentatious days. At present the young barrister, who marries before he has a clear fifteen hundred a year, is charged with reckless imprudence: and unless his wife is a woman of fortune, or he is able to settle a heavy sum of money upon her, his anxious friends terrify him with pictures of want and sorrow stored up for him in the future. Society will not let him live after the fashion of "juniors" eighty or a hundred years since. He must maintain two establishments—his chambers for business, his house in the west-end of town for his wife. Moreover, the lady must have a brougham and liberal pin money, or four or five domestic servants and a drawing-room well furnished with works of art and costly decorations. They must give state-dinners and three or four routs every season; and in all other matters their mode of life must be, or seem to be, that of the upper ten thousand. Either they must live in this style, or be pushed aside and forgotten. The choice for them lies between very expensive society or none at all—that is to say, none at all among the rising members of the legal professions, and the sort of people with whom young barristers, from prudential motives, wish to form acquaintances. Doubtless many a fair reader of this page is already smiling at the writer's simplicity, and is saying to herself, "Here is one of the advocates of marriage on three hundred a year."

But this writer is not going to advocate marriage on that or any other particular sum. From personal experience he knows what comfort a married man may have for an outlay of three or four hundred per annum; and from personal observation he knows what privations and ignominious poverty are endured by unmarried men who spend twice the larger of those sums on chamber-and-club life. He knows that there are men who shiver at the bare thought of losing caste by marriage with a portionless girl, while they are complacently leading the life which,

in nine cases out of ten, terminates in the worst form of social degradation—matrimony where the husband blushes for his wife's early history, and dares not tell his own children the date of his marriage certificate. If it were his pleasure he could speak sad truths about the bachelor of modest income, who is rich enough to keep his name on the books of two fashionable clubs, to live in a good quarter of London, and to visit annually continental capitals, but far too poor to think of incurring the responsibilities of marriage. It could be demonstrated that in a great majority of instances this wary, prudent, selfish gentlemen, instead of being the social success which many simple people believe him, is a signal and most miserable failure; that instead of pursuing a career of various enjoyments and keen excitements, he is a martyr to *ennui*, bored by the monotony of an objectless existence, utterly weary of the splendid clubs, in which he is presumed by unsophisticated admirers to find an ample compensation for want of household comfort and domestic affection; that as soon as he has numbered forty years, he finds the roll of his friends and cordial acquaintances diminish, and is compelled to retire before younger men, who snatch from his grasp the prizes of social rivalry; and that, as each succeeding luster passes, he finds the chain of his secret disappointments and embarrassments more galling and heavy.

It is not a question of marriage on three hundred a year without prospects, but of marriage on five or six hundred a year with good expectations. In the Inns of Court there are, at the present time, scores of clever, industrious, fine-hearted gentlemen, who have sure incomes of three or four hundred pounds per annum. In Tyburnia and Kensington there is an equal number of young gentlewomen with incomes varying between £150 and

£300 a year. These men and women see each other at balls and dinners, in the parks and at theaters; the ladies would not dislike to be wives, the men are longing to be husbands. But that hideous tyrant, social opinion, bids them avoid marriage.

In Lord Eldon's time the case was otherwise. Society saw nothing singular or reprehensible in his conduct when he brought Bessie to live in the little house in Cursitor-street. No one sneered at the young law-student, whose home was a little den in a dingy thoroughfare. At a later date, the rising junior, whose wife lived over his business chambers in Carey-street, was the object of no unkind criticism because his domestic arrangements were inexpensive, and almost frugal. Had his success been tardy instead of quick and decisive, and had circumstances compelled him to live under the shadow of Lincoln's Inn wall for thirty years on a narrow income, he would not on that account have suffered from a single disparaging criticism. Among his neighbors in adjacent streets, and within the boundaries of his Inn, he would have found society for himself and wife, and playmates for his children. Good fortune coming in full, strong flood, he was not compelled to greatly change his plan of existence. Even in those days when costly ostentation characterized aristocratic society—he was permitted to live modestly—and lay the foundation of that great property which he transmitted to his ennobled descendants.

When satire has done its worst with the miserly propensities of the great lawyer and his wife, their long familiar intercourse exhibits a wealth of fine human affection and genuine poetry which sarcasm can not touch. Often has he had occasion to regret Lady Eldon's peculiarities—the stinginess which made her grudge the money paid for a fish or a basket of fruit; the nervous repugnance to society, which greatly diminished his popularity;

and the taste for solitude and silence which marked her painfully towards the close of her life—the Chancellor never even hinted to her his dissatisfaction. When their eldest daughter, following her mother's example, married without the permission of her parents, it was suggested to Lord Eldon that her ladyship ought to take better care of her younger daughter, Lady Frances, and entering society should play the part of a vigilant *chaperon*. The counsel was judicious; but the Chancellor declined to act upon it, saying,—"When she was young and beautiful, she gave up everything for me. What she is, I have made her; and I can not now bring myself to compel her inclinations. Our marriage prevented her mixing in society when it afforded her pleasure; it appears to give pain now, and why should I interpose?" In his old age, when she was dead, he visited his estate in Durham, but could not find heart to cross the Tyne bridge and look at the old house from which he took her in the bloom and tenderness of her girlhood. An urgent invitation to visit Newcastle drew from him the reply—"I know my fellow-townsmen complain of my not coming to see them; but *how can I pass that bridge?*" After a pause, he added, "Poor Bessie! if ever there was an angel on earth she was one. The only reparation which one man can make to another for running away with his daughter, is to be exemplary in his conduct towards her."

In pecuniary affairs not less prudent than his brother, Lord Stowell in matters of sentiment was capable of indiscretion. In the long list of legal loves there are not many episodes more truly ridiculous than the story of the older Scott's second marriage, On April 10, 1813, the decorous Sir William Scott, and Louisa Catherine, widow of John, Marquis of Sligo, and daughter of Admiral Lord Howe, were united in the bonds of holy wedlock, to the infinite amusement of the world of

fashion, and to the speedy humiliation of the bridegroom. So incensed was Lord Eldon at his brother's folly, that he refused to appear at the wedding; and certainly the Chancellor's displeasure was not without reason, for the notorious absurdity of the affair brought ridicule on the whole of the Scott family connection. The happy couple met for the first time in the Old Bailey, when Sir William Scott and Lord Ellenborough presided at the trial of the marchioness's son, the young Marquis of Sligo, who had incurred the anger of the law by luring into his yacht, in Mediterranean waters, two of the king's seamen. Throughout the hearing of that *cause célèbre*, the marchioness sat in the fetid court of the Old Bailey, in the hope that her presence might rouse among the jury or in the bench feelings favorable to her son. This hope was disappointed. The verdict having been given against the young peer, he was ordered to pay a fine of £5,000, and undergo four months incarceration in Newgate, and —worse than fine and imprisonment—was compelled to listen to a parental address from Sir William Scott on the duties and responsibilities of men of high station. Either under the influence of sincere admiration for the judge, or impelled by desire for vengeance on the man who had presumed to lecture her son in a court of justice, the marchioness wrote a few hasty words of thanks to Sir William Scott for his salutary exhortation to her boy. She even went so far as to say that she wished the erring marquis could always have so wise a counselor at his side. This communication was made upon a slip of paper, which the writer sent to the judge by an usher of the court. Sir William read the note as he sat on the bench, and having looked towards the fair scribe, he received from her a glance and smile that were fruitful of much misery to him. Within four months the courteous Sir William Scott was tied fast to a beautiful, shrill,

voluble termagant, who exercised marvelous ingenuity in rendering him wretched and contemptible. Reared in a stately school of old-world politeness, the unhappy man was a model of decorum and urbanity. He took reasonable pride in the perfection of his tone and manner; and the marchioness—whose malice did not lack cleverness—was never more happy than when she was gravely expostulating with him, in the presence of numerous auditors, on his lamentable want of style, tact, and gentlemanlike bearing. It is said that, like Coke and Holt under similar circumstances, Sir William preferred the quietude of his chambers to the society of an unruly wife, and that in the cellar of his Inn he sought compensation for the indignities and sufferings which he endured at home. Fifty years since, the crusted port of the Middle Temple could soothe the heart at night, without paining the head in the morning.

# VI

# FEES AND BRIBES.

## CHAPTER XXIX.

FROM time immemorial popular satire has been equally ready to fix the shame of avarice upon Divinity, Physic, and Law; and it can not be denied that in this matter the sarcasms of the multitude are often sustained by the indisputable evidence of history. The greed of the clergy for tithes and dues is not more widely proverbial than the doctor's thirst for fees, or the advocate's readiness to support injustice for the sake of gain. Of Guyllyam of Harseley, physician to Charles VI. of France, Froissart says, "All his dayes he was one of the greatest nygardes that ever was;" and the chronicler adds, "With this rodde lightly all physicyons are beaten." In his address to the sergeants who were called soon after his elevation to the Marble Chair, the Lord Keeper Puckering, directing attention to the grasping habits which too frequently disgraced the leaders of the bar, observed: "I am to exhort you also not to embrace multitude of causes, or to undertake more places of hearing causes than you are well able to consider of or perform, lest thereby you either disappoint your clients when their causes be heard, or come unprovided, or depart when their causes be in hearing. For it is all one not to come, as either to come unprovided, or depart before it be ended." Notwithstanding Lingard's able defense of the

Cardinal, scholars are still generally of opinion that Beaufort—the Chancellor who lent money on the king's crown, the bishop who sold the Pope's soldiers for a thousand marks—is a notable instance of the union of legal covetousness and ecclesiastical greed.

The many causes which affect the value of money in different ages create infinite perplexity for the antiquarian who wishes to estimate the prosperity of the bar in past times; but the few disjointed data, that can be gathered from old records, create an impression that in the fourteenth, fifteenth, and sixteenth centuries the ordinary fees of eminent counsel were by no means exorbitant, although fortunate practitioners could make large incomes.

Dugdale's "Baronage" describes with delightful quaintness William de Beauchamp's interview with his lawyers when that noble (on the death of John Hastings, Earl of Pembroke, *temp.* Richard II., without issue) claimed the earl's estates under an entail, in opposition to Edward Hastings, the earl's heir-male of the half-blood. "Beauchamp," says Dugdale, "invited his learned counsel to his house in Paternoster-row, in the City of London; among whom were Robert Charlton (then a judge), William Pinchbek, William Branchesley, and John Catesby (all learned lawyers); and after dinner coming out of his chapel, in an angry mood, threw to each of them a piece of gold, and said, 'Sirs, I desire you forthwith to tell me whether I have any right or title to Hastings' lordship and lands.' Whereupon Pinchbek stood up (the rest being silent, fearing that he suspected them), and said 'No man here nor in England dare say that you have any right in them, except Hastings do quit his claim therein; and should he do it, being now under age, it would be of no validitie.'" Had Charlton, the Chief Justice of the Common Pleas, taken gold for his opinion on a case put before him in his judicial char-

acter, he would have violated his judicial oath. But in the earl's house in Paternoster-row he was merely a counselor learned in the law, not a judge. Manifest perils attend a system which permits a judge in his private character to give legal opinions concerning causes on which he may be required to give judgment from the bench; but notwithstanding those perils there is no reason for thinking that Charlton on this occasion either broke law or etiquette. The fair inference from the matter is, that in the closing years of the fourteenth century judges were permitted to give opinions for money to their private clients, although they were forbidden to take gold or silver from any person having "plea or process hanging before them."

In the year of our Lord 1500 the corporation of Canterbury paid for advice regarding their civic interests 3*s.* 4*d.* to each of three sergeants, and gave the Recorder of London 6*s.* 8*d.* as a retaining-fee. Five years later Mr. Sergeant Wood received a fee of 10*s.* from the Goldsmiths' Company; and it may be fairly assumed, that so important and wealthy a body paid the sergeant on a liberal scale. In the sixteenth century it was, and for several generations had been, customary for clients to provide food and drink for their counsel. Mr. Foss gives his readers the following list of items, taken from a bill of costs, made in the reign of Edward IV.:—

| | *s.* | *d.* |
|---|---|---|
| For a breakfast at Westminster spent on our counsel . | 1 | 6 |
| To another time for boat-hire in and out, and a breakfast for two days . . . . . | 1 | 6 |

In like manner the accountant of St. Margaret's, Westminster, entered in the parish books, "Also, paid to Roger Fylpott, learned in the law, for his counsel given, 3*s.* 8*d.*, with 4*d.* for his dinner."

A yet more remarkable custom was that which enabled clients to hire counsel to plead for them at certain

places, for a given time, in whatever causes their eloquence might be required. There still exists the record of an agreement by which, in the reign of Henry VII., Sergeant Yaxley bound himself to attend the assizes at York, Nottingham and Derby, and speak in court at each of those places, whenever his client, Sir Robert Plumpton—"that perpetual and always unfortunate litigant," as he is called by Sergeant Manning—required him to do so." This interesting document runs thus—"This bill indented at London the 18th day of July, the 16th yeare of the reigne of King Henry the 7th, witnesseth that John Yaxley, Sergeant-at-Law, shall be at the next assizes to be holden at York, Nottin., and Derb., if they be holden and kept, and there to be of council with Sir Robert Plompton, knight, such assizes and actions as the said Sir Robert shall require the said John Yaxley, for the which premisses, as well for his costs and his labours, John Pulan, gentleman, bindeth him by thease presents to content and pay to the said John Yaxley 40 marks sterling at the feast of the Nativetie of our Lady next coming, or within eight days next following, with 5 li paid aforehand, parcell of paiment of the said 40 marks. Provided alway that if the said John Yaxley have knowledg and warning only to cum to Nottin. and Derby, then the said John Yaxley is agread by these presents to take only xv li besides the 5 li aforesaid. Provided alwaies that if the said John Yaxley have knowledge and warning to take no labour in this matter, then he to reteine and hold the said 5 li resaived for his good will and labour. In witness hereof, the said John Yaxley, sergeant, to the part of this indenture remaining with the said John Pulan have put his seale the day and yeare above-written. Provided also that the said Sir Robert Plompton shall beare the charges of the said John Yaxley, as well at York as at Nottingham

and Derby, and also to content and pay the said money to the sayd John Yaxley comed to the said assizes att Nott., Derb., and York. "JOHN YAXLEY."

This remarkable agreement—made after Richard III. had vainly endeavored to compose by arbitration the differences between Sir Robert and Sir Robert's heirs-general—certifies that Sir Robert Plumpton engaged to provide the sergeant with suitable entertainment at the assize towns, and also throws light upon the origin of retaining-fees. It appears from the agreement that in olden time a retaining-fee was merely part (surrendered in advance) of a certain sum stipulated to be paid for certain services. In principle it was identical with the payment of the shilling, still given in rural districts, to domestic servants on an agreement for service, and with the transfer of the Queen's shilling given to every soldier on enlistment. There is no need to mention the classic origin of this ancient mode of giving force to a contract.

From the "Household and Privy Purse Expenses of the Le Strange of Hunstanton," published in the Archæologia, may be gleaned some interesting particulars relating to the payment of counsel in the reign of Henry VIII. In 1520, Mr. Cristofer Jenny received from the La Stranges a half-yearly fee of ten shillings; and this general retainer was continued on the same terms till 1527, when the fee was raised from £1 per annum to a yearly payment of £2 13*s.* 4*d.* To Mr. Knightly was paid the sum of 8*s.* 11*d.* "for his fee, and that money yt he layde oute for suying of Symon Holden;" and the same lawyer also received at another time 14*s.* 3*d.* "for his fee and cost of sute for iii termes." A fee of 6*s.* 8*d.* was paid to "Mr. Spelman, s'jeant, for his counsell in makyng my answer in ye Duchy Cham.;" and the same sergeant received a fee of 3*s.* 4*d.* "for his counsell in putting in of the answer." Fees of 3*s.* 4*d.* were in like

manner given "for counsell" to Mr. Knightley and Mr. Whyte; and in 1534, Mr. Yelverton was remunerated "for his counsell" with the unusually liberal honorarium of twenty shillings. From the household book of the Earl of Northumberland, it appears that order was made, in this same reign, for "every oone of my lordes counsaill to have c's. fees, if he have it in household and not by patent." After the earl's establishment was reduced to forty-two persons it still retained "one of my lordes counsaill for answering and riddying of causes, whenne sutors cometh to my lord." At a time when every lord was required to administer justice to his tenants and the inferior people of his territory, a counselor learned in the law was an important and most necessary officer in a grand seigneur's retinue.

While Sir Thomas More lived in Bucklebury, he "gained, without grief, not so little as £400 by the year." This income doubtless accrued from the emoluments of his judicial appointment in the City, as well as from his practice at Westminster and elsewhere In Henry VIII.'s time it was a very considerable income, such as was equaled by few leaders of the bar not holding high office under the Crown.

In Elizabeth's reign, and during the time of her successor, barristers' fees show a tendency towards increase; and the lawyers who were employed as advocates for the Crown, or held judicial appointments, acquired princely incomes, and in some cases amassed large fortunes. Fees of 20*s.* were more generally paid to counsel under the virgin queen, than in the days of her father; but still half that fee was not thought too small a sum for an opinion given by Her Majesty's Solicitor-General. Indeed, the ten-shilling fee was a very usual fee in Elizabeth's reign; and it long continued an ordinary payment for one opinion on a case, or for one speech in a cause of

no great importance and of few difficulties. "A barrister is like Balaam's ass, only speaking when he sees the angel," was a familiar saying in the seventeenth century. In Chancery, however, by an ordinance of the Lords Commissioners, passed in 1654, to regulate the conduct of suits and the payments to masters, counsel, and solicitors, it was arranged that on the hearing of a cause utter-barristers should receive £1 fees, while the Lord Protector's counsel and sergeants-at-law should receive £2 fees, *i. e.* "double fees."

The archives of Lyme Regis show that under Elizabeth the usage was maintained of supplying counsel with delicacies for the table, and also providing them with means of locomotion. Here are some items in an old record of disbursements made by the corporation of Lyme Regis:—"A. D. Paid for wine carried with us to Mr. Poulett—£0 3*s.* 6*d.*; Wine and sugar given to Mr. Poulett, £0 3*s.* 4*d.*; Horse-hire, and for the sergeant to ride to Mr. Walrond, of Bovey, and for a loaf of sugar, and for conserves given there to Mr. Poppel, £1 1*s.* 0*d.*; Wine and sugar given to Judge Anderson, £0 3*s.* 4*d.* A bottle and sugar given to Mr. Gibbs (a lawyer)."

Under Elizabeth, the allowance made to Queen's Sergeants was £26 6*s.* 8*d.* for fee, reward, and robes; and £20 for his services whenever a Queen's Sergeant traveled circuit as Justice of Assize. The fee for her Solicitor-General was £50. When Francis Bacon was created King's Counsel to James I., an annual salary of forty pounds was assigned to him from the royal purse; and down to William IV.'s time King's Counsel received a stipend of £40 a year and an allowance for stationery. Under the last-mentioned monarch, however, the stipend and allowance were both withdrawn; and at present the status of a Q. C. is purely an affair of professional precedence, to which no fixed emolument is attached.

But a list of the fees, paid from the royal purse to each judge or crown lawyer under James I., would afford no indication as to the incomes enjoyed by the leading members of the bench and bar at that period. The salaries paid to those officers were merely retaining-fees, and their chief remuneration consisted of a large number of smaller fees. Like the judges of prior reigns, King James's judges were forbidden to accept *presents* from actual suitors; but no suitor could obtain a hearing from any one of them until he had paid into court certain fees, of which the fattest was a sum of money for the judge's personal use. At one time many persons labored under an erroneous impression that as judges were forbidden to accept presents from actual suitors, the honest judge of past times had no revenue besides his specified salary and allowance. Like the king's judges, the king's counselors frequently made great incomes by fees, though their nominal salaries were invariably insignificant. At a time when Francis Bacon was James's Attorney-General, and received no more than £81 6*s.* 8*d.* for his yearly salary, he made £6,000 per annum in his profession; and of that income—a royal income in those days—the greater portion consisted of fees paid to him for attending to the king's business. "I shall now," Bacon wrote to the king, "again make oblation to your Majesty,—first of my heart, then of my service; thirdly, of my place of Attorney, which I think is honestly worth £6,000 per annum; and fourthly, of my place in the Star Chamber, which is worth £1,600 per annum, and with the favor and countenance of a Chancellor, much more." Coke had made a still larger income during his tenure of the Attorney's place, the fees from his private and official practice amounting to no less a sum than seven thousand pounds in a single year.

At later periods of the seventeenth century barristers

made large incomes, but the fees seem to have been by no means exorbitant. Junior barristers received very modest payments, and it would appear that juniors received fees from eminent counsel for opinions and other professional services. While he acted as Treasurer of the Middle Temple at an early period of his career, Whitelock received a fee from Attorney-General Noy. "Upon my carrying the bill," writes Whitelock, "to Mr. Attorney-General Noy for his signature, with that of the other benchers, he was pleased to advise with me about a patent the king had commanded him to draw, upon which he gave me a fee for it out of his little purse, saying, 'Here, take those single pence,' which amounted to eleven groats, 'and I give you more than an attorney's fee, because you will be a better man than the Attorney-General. This you will find to be true.' After much other drollery, wherein he delighted and excelled, we parted, abundance of company attending to speak to him all this time." Of course the payment of itself was no part of the drollery to which Whitelock alludes, for as a gentleman he could not have taken money proffered to him in jest, unless etiquette encouraged him to look for it and allowed him to accept it. The incident justifies the inference that the services of junior counsel to senior barristers—services at the present time termed "deviling"—were formerly remunerated with cash payments.

Towards the close of Charles I.'s reign—at a time when political distractions were injuriously affecting the legal profession, especially the stanch royalists of the long robe—Maynard, the Parliamentary lawyer, received on one round of the Western Circuit, £700, "which," observes Whitelock, to whom Maynard communicated the fact, "I believe was more than any one of our profession got before."

Concerning the incomes made by eminent counsel in

Charles II.'s time, many *data* are preserved in diari and memoirs. That a thousand a year was looked upc as a good income for a flourishing practitioner of tl "merry monarch's" Chancery bar may be gathered fro a passage in "Pepys' Diary," where the writer records th compliments paid to him regarding his courageous an eloquent defense of the Admiralty before the House c Commons in March, 1668. Under the influence of hal a-pint of mulled sack and a dram of brandy, the Admi alty clerk made such a spirited and successful speec in behalf of his department, that he was thought to hav effectually silenced all grumblers against the managemer of his Majesty's navy. Compliments flowed in upon th orator from all directions. Sir William Coventry pledge his judgment that the fame of the oration would last fc ever in the Commons; silver-tongued Sir Heneage Finc in the blandest tones, averred that no other living ma could have made so excellent a speech; the placemen c the Admiralty vied with each other in expressions of d light and admiration; and one flatterer, whose name not recorded, caused Mr. Pepys infinite pleasure by say ing that the speaker who had routed the accusers of government office, might easily earn a thousand a ye at the Chancery bar.

That sum, however, is insignificant, when it is compare with the incomes made by the most fortunate advocate of that period. Eminent speakers of the Common-La Bar made between £2,000 and £3,500 per annum c circuit and at Westminster, without the aid of king business; and still larger receipts were recorded in tl fee-books of his Majesty's attorneys aud solicitors. I the Chancery bar of the second Charles there was at lea one lawyer who in one year made considerably more tha four times the income that was suggested to Pepys' vani and self-complacence. At Stanford Court, Worceste

shire, is preserved a fee-book kept by Sir Francis Winnington, Solicitor-General to the "merry monarch," from December, 1674, to Jauuary 13, 1679, from the entries of which record the reader may form a tolerably correct estimate of the professional revenues of successful lawyers at that time. In Easter Term, 1671, Sir Francis pocketed £459; in Trinity Term £449 10*s.*; in Michaelmas Term £521; and in Hilary Term, 1672, £361, 10*s.* the income for the year being £1,791, without his earnings on the Oxford Circuit and during vacation. In 1673 Sir Francis received £3,371; in 1674, he earned £3,560;[1] and in 1675—*i. e.*, the first year of his tenure of the Solicitor's office—his professional income was £4,066, of which sum £429 were office fees. Concerning the Attorney-General's receipts about this time, we have sufficient information from Roger North, who records that his brother, while Attorney-General, made nearly seven thousand pounds in one year, from private and official business. It is noteworthy that North, as Attorney-General, made the same income which Coke realized in the same office at the commencement of the century. But under the Stuarts this large income of £7,000—in those days a princely revenue—was earned by work so perilous and fruitful of obloquy, that even Sir Francis, who loved money and cared little for public esteem, was glad to resign the post of Attorney, and retire to the Pleas with £4,000 a year. That the fees of the Chancery lawyers under Charles II. were regulated upon a liberal scale we know from Roger North, and the record of Sir John

[1] In his "Survey of the State of England in 1685," Macaulay—giving one of those misleading references with which his history abounds, says: "A thousand a year was thought a large income for a barrister. Two thousand a year was hardly to be made in the Court of King's Bench, except by crown lawyers." While making the first statement he doubtless remembered the passage in "Pepys' Diary." For the second statement he refers to "Layton's Conversations with Chief Justice Hale." It is fair to assume that Lord Macaulay had never seen Sir Francis Winnington's fee-book.

King's success. Speaking of his brother Francis, the biographer says: "After he, as king's counsel, came within the bar, he began to have calls into the Court of Chancery; which he liked very well, because the quantity of the business, *as well as the fees*, was greater; but his home was the King's Bench, where he sat and reported like as other practitioners." And in Sir John King's memoirs it is recorded that in 1676, he made £4,700, and that he received from £40 to £50 a day during the last four days of his appearance in court. Dying in 1677,[1] while his supremacy in his own court was at its height, Sir John King was long spoken of as a singularly successful Chancery barrister.

Of Francis North's mode of taking and storing his fees the "Life of Lord Keeper Guilford" gives the following picture: "His business increased, even while he was Solicitor; to be so much as to have overwhelmed one less dexterous; but when he was made Attorney-General, though his gains by his office were great, they were much greater by his practice; for that flowed in upon him like an orage, enough to overset one that had not an extraordinary readiness in business. His skull-caps which he wore when he had leisure to observe his constitution, as I touched before, were now destined to lie in a drawer to receive the money that came in by fees. One had the gold, another the crowns and half-crowns, and another the smaller money. When these vessels were full they were committed to his friend (the Hon. Roger North

[1] "In the fourth day of his fever, he being att the Chancery Bar, he fell so ill of the fever that he was forced to leave the court and come to his chambers in the Temple with one of his clerks which constantly wayted on him and carried his bags of writings for his pleadings, and there told him that I should return to every clyant his breviat and his fee, for he could serve them no longer, for he had done with this world, and thence came home to his house in Salisbury Court, and took his bed. . . . And there he sequestered himself to meditation between God and his own soul, without the least regret, and quietly and patiently contented himself with the will of God." *Vide Memoir of Sir John King, Knt., written by his father.*

who was constantly near him, to tell out the cash, and put it into the bags according to the contents; and so they went to his treasurers', Blanchard and Child, goldsmiths, Temple Bar."[1] In the days of wigs, skull-caps like those which Francis North used as receptacles for money, were very generally worn by men of all classes and employments. On returning to the privacy of his home, a careful citizen usually laid aside his costly wig, and replaced it with a cheap and durable skull-cap, before he sat down in his parlor. So also, men careful of their health often wore skull-caps *under* their wigs on occasions when they were required to endure a raw atmosphere without the protection of their beavers. In days when the law-courts were held in the open hall of Westminster, and lawyers practicing therein were compelled to sit or speak for hours together, exposed to sharp currents of cold air, it was customary for wearers of the long robe to place between their wigs and natural hair closely-fitting caps, made of stout silk or soft leather. But more interesting than the money-caps are the fees which they contained. The ringing of the gold pieces, the clink

[1] The lawyers of the seventeenth century were accustomed to make a show of their fees to the clients who called upon them. Hudibras's lawyer (Hud., Part iii. cant. 3) is described as sitting in state with his books and money before him:—

"To this brave man the knight repairs
For counsel in his law affairs,
And found him mounted in his pew,
With books and money placed for shew,
Like nest-eggs, to make clients lay,
And for his false opinion pay:
To whom the knight, with comely grace,
Put off his hat to put his case,
Which he as proudly entertain'd
As the other courteously strain'd;
And to assure him 'twas not that
He looked for, bid him put on 's hat."

Under Victoria, the needy junior is compelled, for the sake of appearances, to furnish his shelves with law books, and covers his table with counterfeit briefs. Under the Stuarts, he placed a bowl of spurious money among the sham papers that lay upon his table.

of the crowns with the half-crowns, and the rattle of the smaller money, lead back the barrister to those happier and remote times, when the "inferior order" of the profession paid the superior order with "money down;" when the advocate never opened his mouth till his fingers had closed upon the gold of his trustful client; when "credit" was unknown in transactions between counsel and attorney;—that truly *golden* age of the bar, when the barrister was less suspicious of the attorney, and the attorney held less power over the barrister.

Having profited by the liberal payments of Chancery while he was an advocate, Lord Keeper Guilford destroyed one source of profit to counsel from which Francis North, the barrister, had drawn many a capful of money. Saith Roger, "He began to rescind all motions for speeding and delaying the hearing of causes besides the ordinary rule of court; and this lopped off a limb of the motion practice. I have heard Sir John Churchill, a famous Chancery practitioner, say, that in his walk from Lincoln's Inn down to the Temple Hall where, in the Lord Keeper Bridgman's time, causes and motions out of term were heard, he had taken £28 with breviates only for motions and defenses for hastening and retarding hearings. His lordship said, that the rule of the court allowed time enough for any one to proceed or defend; and if for special reasons he should give way to orders for timing matters, it would let in a deluge of vexatious pretenses, which, true or false, being asserted by the counsel with equal assurance, distracted the court and confounded the suitors."

Let due honor be rendered to one Caroline lawyer who was remarkable for his liberality to clients and carelessness of his own pecuniary interests. From his various biographers many pleasant stories may be gleaned concerning Hale's freedom from base love of money. In his

days, and long afterwards, professional etiquette permitted clients and counsel to hold intercourse without the intervention of an attorney. Suitors, therefore, frequently addressed him personally, and paid for his advice with their own hands, just as patients are still accustomed to fee their doctors. To these personal applicants, and also to clients who approached him by their agents, he was very liberal. "When those who came to ask his counsel gave him a piece, he used to give back the half, and to make ten shillings his fee in ordinary matters that did not require much time or study." From this it may be inferred that while Hale was an emiment member of the bar twenty shillings was the usual fee to a leading counsel, and an angel the customary honorarium to an ordinary practitioner. As readers have already been told, the angel[1] was a common fee in the seventeenth century; but the story of Hale's generous usage implies that his more distinguished contemporaries were wont to look for and accept a double fee. Moreover, the anecdote would not be told in Hale's honor if etiquette had fixed the double fee as the minimum of remuneration for a superior barrister's opinion. He was frequently employed in arbitration cases, and as an arbitrator he steadily refused payment for his services to legal disputants, saying in explanation of his moderation, "In these cases I am made a judge, and a judge ought to take

[1] In the "Serviens ad Legem," Mr. Sergeant Manning raises questions concerning the antiquity of *guineas* and half-guineas with the following remarks:—"Should any cavil be raised against this jocular allusion, on the ground that guineas and half-guineas were unknown to sergeants who flourished in the sixteenth century, the objector might be reminded, that in antique records, instances occur in which the 'guianois d'or,' issued from the ducal mint at Bourdeaux, by the authority of the Plantagenet sovereigns of Guienne, were by the same authority, made current among their English subjects; and it might be suggested that those who have gone to the coast of Africa for the origin of the modern guinea, need not have carried their researches beyond the Bay of Biscay. *Quære*, whether the Guinea Coast itself may not owe its name to the 'guianois d'or' for which it furnished the raw material."

no money." The misapprehension as to the nature of an arbitrator's functions displayed in these words gives an instructive insight into the mental constitution of the judge who wrote on natural science, and at the same time exerted himself to secure the conviction of witches. A more pleasant and commendable illustration of his conscientiousness in pecuniary matters is found in the steadiness with which he refused to throw upon society the spurious coin which he had taken from his clients. In a tone of surprise that raises a smile at the average morality of our forefathers, Bishop Burnet tells of Hale: "Another remarkable instance of his justice and goodness was, that when he found ill-money had been put into his hands, he would never suffer it to be vented again; for he thought it was no excuse for him to put false money in other people's hands because some had put it into his. A great heap of this he had gathered together, for many had so abused his goodness as to mix base money among the fees that were given him." In this particular case the judge's virtue was its own reward. His house being entered by burglars, this accumulation of bad money attracted the notice of the robbers, who selected it from a variety of goods and chattels and carried it off under the impression that it was the lawyer's hoarded treasure. Besides large sums expended on unusual acts of charity, this good man habitually distributed among the poor a tithe of his professional earnings.

In the seventeenth century General Retainers were very common, and counsel learned in the law were ready to accept them from persons of low extraction and questionable repute. Indeed, no upstart deemed himself properly equipped for a campaign at court until he had recorded a fictitious pedigree at the Heralds' College, taken a barrister as well as a doctor into regular employment, and hired a curate to say grace daily at his table.

In the summer of his vile triumph Titus Oates was attended, on public occasions, by a robed counsel and a physician.

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## CHAPTER XXX.

PEMBERTON'S fees for his services in behalf of the Seven Bishops show that the most eminent counsel of his time was content with very modest remuneration for advice and eloquence. From the bill of an attorney employed in that famous trial, it appears that the ex-Chief Justice was paid a retaining-fee of five guineas, and received twenty guineas with his brief. He also pocketed three guineas for a consultation. At the present date, thirty times the sum of these paltry payments would be thought an inadequate compensation for such zeal, judgment, and ability as Francis Pemberton displayed in the defense of his reverend clients.

But, though lawyers were paid thus moderately in the seventeenth century, the complaints concerning their avarice and extortions were loud and universal. This public discontent was due to the inordinate exactions of judges and place-holders rather than to the conduct of barristers and attorneys; but popular displeasure seldom cares to discriminate between the blameless and the culpable members of an obnoxious system, or to distinguish between the errors of ancient custom and the qualities of those persons who are required to carry out old rules. Hence the really honest and useful practitioners of the law endured a full share of the obloquy caused by the misconduct of venal justices and corrupt officials. Counsel, attorneys, and even scriveners came in for abuse. It was averred that they conspired to pick the public pocket, that eminent conveyancers, not

less than copying clerks, swelled their emoluments by knavish tricks. They would talk for the mere purpose of protracting litigation, injure their clients by vexatious and bootless delays, and do their work so that they might be feed for doing it again. Draughtsmen and their clerks wrote loosely and wordily, because they were paid by the folio. "A term," writes the quaint author of "Saint Hillaries Teares," in 1642, "so like a vacation; the prime court, the Chancery (wherein the clerks had wont to dash their clients out of countenance with long dashes); the examiners to take the depositions in hyperboles, and roundabout *Robinhood* circumstances with *saids* and *aforesaids*, to enlarge the number of sheets." "Hudibras" contains, among other pungent satires against the usages of lawyers, an allusion to this characteristic custom of legal draughtsmen, who, being paid by the sheet, were wont

> "To make 'twixt words and lines large gaps,
> Wide as meridians in maps:
> To squander paper and spare ink,
> Or cheat men of their words some think."

In the following century the abuses consequent on the objectionable system of folio-payment were noticed in a parliamentary report (bearing date November 8, 1740), which was the most important result of an ineffectual attempt to reform the superior courts of law and to lessen the expenses of litigation.

More is known about the professional receipts of lawyers since the Revolution of 1688 than can be discovered concerning the incomes of thefr precursors in Westminster Hall. For six years, commencing with Michaelmas Term, 1719, Sir John Cheshire, King's Sergeant, made an average annual income of £3,241. Being then sixty-three years of age, he limited his practice to the Common Pleas, and during the next six years made in that one court £1,320 per annum. Mr. Foss, to whom the present writer

is indebted for these particulars with regard to Sir John Cheshire's receipts, adds: "The fees of counsel's clerks form a great contrast with those that are now demanded, being only threepence on a fee of half-a-guinea, sixpence for a guinea, and one shilling for two guineas." Of course the increase of clerk's fees tells more in favor of the master than the servant. At the present time the clerk of a barrister in fairly lucrative practice costs his master nothing. Bountifully paid by his employer's clients, he receives no salary from the counselor whom he serves; whereas, in old times, when his fees were fixed at the low rate just mentioned, the clerk could not live and maintain a family upon them, unless his master belonged to the most successful grade of his order.

Horace Walpole tells his readers that Charles Yorke "was reported to have received 100,000 guineas in fees;" but his fee-book shows that his professional rise was by no means so rapid as those who knew him in his sunniest days generally supposed. The story of his growing fortune is indicated in the following statement of successive incomes:—1st year of practice at the bar, £121; 2nd, £201; 3rd and 4th, between £300 and £400 per annum; 5th, £700; 6th, £800; 7th, £1,000; 9th, £1,600; 10th, £2,500. While Solicitor-General he made £3,400 in 1757; and in the following year he earned £5,000. His receipts during the last year of his tenure of the Attorney-Generalship amounted to £7.322. The reader should observe that as Attorney-General he made but little more than Coke had realized in the same office,—a fact serving to show how much better paid were Crown lawyers in times when they held office like judges during the sovereign's pleasure, than in these later days when they retire from place together with their political parties.

The difference between the incomes of Scotch advocates and English barristers was far greater in the

eighteenth century than at the present time, although in our own day the receipts of several second-rate lawyers of the Temple and Lincoln's Inn far surpass the revenues of the most successful advocates of the Edinburgh faculty. A hundred and thirty years since a Scotch barrister who earned £500 per annum by his profession was esteemed notably successful.

Just as Charles Yorke's fee-book shows us the pecuniary position of an eminent English barrister in the middle of the last century, John Scott's list of receipts displays the prosperity of a very fortunate Crown lawyer in the next generation. Without imputing motives the present writer may venture to say that Lord Eldon's assertions with regard to his earnings at the bar, and his judicial incomes, were not in strict accordance with the evidence of his private accounts. He used to say that his first year's earnings in his profession amounted to half-a-guinea, but there is conclusive proof that he had a considerable quantity of lucrative business in the same year. "When I was called to the bar," it was his humor to say, "Bessie and I thought all our troubles were over, business was to pour in, and we were to be rich almost immediately. So I made a bargain with her that during the following year all the money I should receive in the first eleven months should be mine, and whatever I should get in the twelfth month should be hers. That was our agreement, and how do you think it turned out? In the twelfth month I received half-a-guinea—eighteenpence went for charity, and Bessy got nine shillings. In the other eleven months I got one shilling." John Scott, be it remembered, was called to the bar on February 9, 1776, and on October 2, of the same year, William Scott wrote to his brother Henry—"My brother Jack seems highly pleased with his circuit business. I hope it is only the beginning of

future triumphs. All appearances speak strongly in his favor." There is no need to call evidence to show that Eldon's success was more than respectable from the outset of his career, and that he had not been called many years before he was in the foremost rank of his profession. His fee-book gives the following account of his receipts in thirteen successive years:—1786, £6,833 7*s.*; 1787, £7,600 7*s.*; 1788, £8,419 14*s.*; 1789, £9,559 10*s.*; 1790, £9,684 15*s.*; 1791, £10.213 13*s.* 6*d.*; 1792, £9,080 9*s.*; 1793, £10,330 1*s.* 4*d.*; 1794, £11,592; 1795, £11,149 15*s.* 4*d.*; 1796, £12,140 15*s.* 8*d.*; 1797, £10,861 5*s.* 8*d.*; 1798, £10,557 17*s.* During the last six of the above-mentioned years he was Attorney-General, and during the preceeding four years Solicitor-General.

Although General Retainers are much less general than formerly, they are by no means obsolete. Noblemen could be mentioned who at the present time engage counsel with periodical payments, special fees of course being also paid for each professional service. But the custom is dying out, and it is probable that after the lapse of another hundred years it will not survive save among the usages of ancient corporations. Notice has already been taken of Murray's conduct when he returned nine hundred and ninety-five out of a thousand guineas to the Duchess of Marlborough, informing her that the professional fee with a general retainer was neither more nor less than five guineas. The annual salary of a Queen's counsel in past times was in fact a fee with a general retainer; but this periodic payment is no longer made to wearers of silk.

In his learned work on "The Judges of England," Mr. Foss observes: "The custom of retaining counsel in fee lingered in form, at least in one ducal establishment. By a formal deed-poll between the proud duke of Somerset and Sir Thomas Parker, dated July 19, 1707, the

duke retains him as his 'standing counsell in ffee,' and gives and allows him 'the yearly ffee of four markes, to be paid by my solicitor' at Michaelmas, 'to continue during my will and pleasure.'" Doubtless Mr. Foss is aware that this custom still "lingers in form;" but the tone of his words justifies the opinion that he underrates the frequency with which general retainers are still given. The "standing counsel" of civic and commercial companies are counsel with general retainers, and usually their general retainers have fees attached to them.

The payments of English barristers have varied much more than the remunerations of English physicians. Whereas medical practitioners in every age have received a certain definite sum for each consultation, and have been forbidden by etiquette to charge more or less than the fixed rate, lawyers have been allowed much freedom in estimating the worth of their labor. This difference between the usages of the two professions is mainly due to the fact, that the amount of time and mental effort demanded by patients at each visit or consultation is very nearly the same in all cases, whereas the requirements of clients are much more various. To get up the facts of a law-case may be the work of minutes, or hours, or days, or even weeks; to observe the symptoms of a patient, and to write a prescription, can be always accomplished within the limits of a short morning call. In all times, however, the legal profession has adopted certain scales of payment—that fixed the *minimum* of remuneration, but left the advocate free to get more, as circumstances might encourage him to raise his demands. Of the many good stories, told of artifices by which barristers have delicately intimated their desire for higher payment, none is better than an anecdote recorded of Sergeant Hill. A troublesome case being laid before this most

erudite of George III.'s sergeants, he returned it with a brief note, that he "saw more difficulty in the case than, *under all the circumstances*, he could well solve." As the fee marked upon the case was only a guinea, the attorney readily inferred that its smallness was one of the circumstances which occasioned the counsel's difficulty, The case, therefore, was returned, with a fee of two guineas. Still dissatisfied, Sergeant Hill wrote that "he saw no reason to change his opinion."

By the etiquette of the bar no barrister is permitted to take a brief on any circuit, save that on which he habitually practices, unless he has received a special retainer; and no wearer of silk can be specially retained with a less fee than three hundred guineas. Erskine's first special retainer was in the Dean of St. Asaph's case, his first speech in which memorable cause was delivered when he had been called to the bar but little more than five years. From that time till his elevation to the bench, he received on an average twelve special retainers a year, by which at the minimum of payment he made £3,600 per annum. Besides being lucrative and honorable, this special employment greatly augmented his practice in Westminister Hall, as it brought him in personal contact with attorneys in every part of the country, and heightened his popularity among all classes of his fellow-countrymen. In 1786 he entirely withdrew from ordinary circuit practice, and confined his exertions in provincial courts to the causes for which he was specially retained. No advocate since his time has received an equal number of special retainers; and if he did not originate the custom of special retainers,[1] he was the

[1] Lord Campbell observed: "Some say that special retainers began with Erskine; but I doubt the fact." It is strange that there should be uncertainty as to the time when special retainers—unquestionably a comparatively recent innovation in legal practice—came into vogue.

first English barrister who ventured to reject all other briefs.

There is no need to recapitulate all the circumstances of Erskine's rapid rise in his profession—a rise due to his effective brilliance and fervor in political trials; but this chapter on lawyers' fees would be culpably incomplete, if it failed to notice some of its pecuniary consequences. In the eight month after his call to the bar he thanked Admiral Keppel for a splendid fee of one thousand pounds. A few years later a legal gossip wrote: "Everybody says that Erskine will be Solicitor-General, and if he is, and indeed whether he is or not, he will have had the most rapid rise that has been known at the bar. It is four years and a half since he was called, and in that time he has cleared £8,000 or £9,000, besides paying his debts—got a silk gown, and business of at least £3,000 a year—a seat in Parliament—and, over and above, has made his brother Lord Advocate."

Merely to mention large fees without specifying the work by which they were earned would mislead the reader. During the railway mania of 1845, the few leaders of the parliamentary bar received prodigious fees: and in some cases the sums were paid for very little exertion. Frequently it happened that a lawyer took heavy fees in causes, at no stage of which he either made a speech or read a paper in the service of his too liberal employers. During that period of mad speculation the committee-rooms of the two Houses were an El Dorado to certain favored lawyers, who were alternately paid for speech and *silence* with reckless profusion. But the time was so exceptional, that the fees received and the fortunes made in it by a score of lucky advocates and solicitors can not be fairly cited as facts illustrating the social condition of legal practitioners. As a general rule, it may be stated that large fortunes are not made at the bar by

large fees. Our richest lawyers have made the bulk of their wealth by accumulating sufficient but not exorbitant payments. In most cases the large fee has not been a very liberal remuneration for the work done. Edward Law's retainer for the defense of Warren Hastings brought with it £500—a sum which caused our grandfathers to raise their hands in astonishment at the nabob's munificence; but the sum was in reality the reverse of liberal. In all, Warren Hastings paid his leading advocate considerably less than four thousand pounds; and if Law had not contrived to win the respect of solicitors by his management of the defense, the case could not be said to have paid him for his trouble. So also the eminent advocate, who in the great case of Small *v.* Attwood received a fee of £6,000, was actually underpaid. When he made up the account of the special outlay necessitated by that cause, and the value of the business which the burdensome case compelled him to decline, he had small reason to congratulate himself on his remuneration.

A statement of the incomes made by chamber-barristers, and of the sums realized by counsel in departments of the profession that do not invite the attention of the general public, would astonish those uninformed persons who estimate the success of a barrister by the frequency with which his name appears in the newspaper reports of trials and suits. The talkers of the bar enjoy more *éclat* than the barristers who confine themselves to chamber practice, and their labors lead to the honors of the bench; but a young lawyer, bent only on the acquisition of wealth, is more likely to achieve his ambition by conveyancing or arbitration-business than by court-work. Kenyon was never a popular or successful advocate, but he made £3,000 a year by answering cases. Charles Abbott at no time of his life could speak better than a

vestryman of average ability; but by drawing informations and indictments, by writing opinions on cases, he made the greater part of the eight thousand pounds which he returned as the amount of his professional receipts in 1807. In our own time, when that popular common-law advocate, Mr. Edwin James, was omnipotent with juries, his income never equaled the income of certain chamber-practitioners whose names are utterly unknown to the general body of English society.

## CHAPTER XXXI.

TO a young student making his first researches beneath the surface of English history, few facts are more painful and perplexing than the judicial corruption which prevailed in every period of our country's growth until quite recent times—darkening the brightest pages of our annals, and disfiguring some of the greatest chieftains of our race.

Where he narrates the fall and punishment of De Weyland, towards the close of the thirteenth century, Speed observes: "While the Jews by their cruel usuries had in one way eaten up the people, the justiciars, like another kind of Jews, had ruined them with delay in their suits, and enriched themselves with wicked convictions." Of judicial corruption in the reigns of Edward I. and Edward II. a vivid picture is given in a political ballad, composed in the time of one or the other of those monarchs. Of this poem Mr. Wright, in his "Political Songs," gives a free version, a part of which runs thus:—

"Judges there are whom gifts and favorites control,
Content to serve the devil alone and take from him a toll;
If nature's law forbids the judge from selling his decree,
How dread to those who finger bribes the punishment shall be.

"Such judges have accomplices whom frequently they send
To get at those who claim some land, and whisper as a friend,
'Tis I can help you with the judge, if you would wish to plead,
Give me but half, I'll undertake before him you'll succeed.'

"The clerks who sit beneath the judge are open-mouthed as he,
As if they were half-famished and gaping for a fee;
Of those who give no money they soon pronounce the state,
However early they attend, they shall have long to wait.

"If comes some noble lady, in beauty and in pride,
With golden horns upon her head, her suit he'll soon decide:
But she who has no charms, nor friends, and is for gifts too poor,
Her business all neglected, she's weeping shown the door.

"But worse than all, within the court we some relators meet,
Who take from either side at once, and both their clients cheat
The ushers, too, to poor men say, 'You labor here in vain,
Unless you tip us all around, you may go back again.'

"The sheriff's hard upon the poor who can not pay for rest,
Drags them about to every town, on all assizes press'd;
Compell'd to take the oath prescrib'd without objection made,
For if they murmur and can't pay, upon their backs they're laid.

"They enter any private house, or abbey that they choose,
Where meat and drink and all things else are given as their dues;
And after dinner jewels, too, or this were all in vain,
Bedels and garcons must receive, and all that form the train.

"And next must gallant robes be sent as presents to their wives,
Or from the manor of the host some one his cattle drives;
While he, poor man, is sent to jail upon some false pretense,
And pays at last a double cost, ere he gets freed from thence.

"I can't but laugh to see their clerks, whom once I knew in need,
When to obtain a bailiwick they may at last succeed;
With pride in gait and countenance and with their necks erect,
They lands and houses quickly buy and pleasant rents collect.

"Grown rich they soon the poor despise, and new made laws display,
Oppress their neighbors and become the wise men of their day;
Unsparing of the least offense, when they can have their will,
The hapless country all around with discontent they fill."

In the fourteenth century judicial corruption was so general and flagrant, that cries came from every quarter for the punishment of offenders. The Knights Hospitalers' Survey, made in the year 1338, gives us revelations that confound the indiscreet admirers of feudal manners. From that source of information it appears that regular stipends were paid to persons "tam in curiâ domini regis, quam justiciariis, clericis, officiariis et aliis ministris, in diversis curiis suis, ac etiam aliis familiaribus

magnatum, tam pro terris tenementis redditibus et libertatibus Hospitalis, quam Templariorum, et maxime pro terris Templariorum manutenendis." Of pensions to the amount of £440 mentioned in the account, £60 were paid to judges, clerks, and minor officers of courts. Robert de Sadington, the Chief Baron, received 40 marks annually; twice a year the Knights Hospitalers presented caps to one hundred and forty officers of the Exchequer; and they expended 200 marks *per annum* on gifts that were distributed in law courts, "*pro favore habendo*, et pro placitis habendis, et expensis parliamentorum." In that age, and for centuries later, it was customary for wealthy men and great corporations to make valuable presents to the judges and chief servants of the king's courts; but it was always presumed that the offerings were simple expressions of respect—not tribute rendered, "pro favore habendo."

Bent on purifying the moral atmosphere of his courts, Edward III. raised the salaries of his judges, and imposed upon them such oaths that none of their order could pervert justice, or even encourage venal practices, without breaking his solemn vow[1] to the king's majesty.

[1] A portion of the oath prescribed for judges in the "Ordinance for Justices," 20 Edward III., will show the reader the evils which called for correction, and the care taken to effect their cure. "Ye shall swear," ran the injunction to which each judge was required to vow obedience, "that well and lawfully ye shall serve our lord the king and his people in the office of justice; . . . . and that ye take not by yourself or by other, privily or apertly, gift nor reward of gold nor silver, nor of any other thing which may turn to your profit, unless it be meat or drink, and that of small value, *of any man that shall have plea or process before you, as long as the same process shall be so hanging, nor after for the same cause: and that ye shall take no fee as long as ye shall be justice, nor robes of any man, great or small,* but of the king himself: and that ye give none advice or counsel to no man, great or small, in any case where the king is party; &c., &c., &c.," The clause forbidding the judge to receive gifts of actual suitors was a positive recognition of his right to "customary gifts" rendered by persons who had no processes hanging before him. It should moreover be observed that in the passage, "ye shall take no fee as long as ye shall be justice, nor robes of any man," the word "fee" signifies "salary," and not a single payment or gratuity. The judge was forbidden to receive from any man a fixed stipend (by the

From the amounts of the *royal* fees or stipends paid to Edward III.'s judges, it may be vaguely estimated how far they were dependent on gifts and *court* fees for the means of living with appropriate state. John Knyvet, Chief Justice of the King's Bench, has £40 and 100 marks per annum. The annual fee of Thomas de Ingleby, the solitary puisne judge of the King's Bench at that time, was at first 40 marks; but he obtained an additional £40 when the "fees" were raised, and he received moreover £20 a year as a judge of assize. The Chief of the Common Pleas, Robert de Thorp, received £40 per annum, payable during his tenure of office, and another annual sum of £40 payable during his life. John de Mowbray, William de Wychingham, and William de Fyncheden, the other judges of Common Pleas, received 40 marks each as official salary, and £20 per annum for their services at assizes. Mowbray's stipend was subsequently increased to 40 marks, while Wychingham and Fyncheden received an additional £40 per annum. To the Chief Baron and the two other Barons of the Exchequer annual fees of 40 marks each were paid; the Chief Baron receiving £20 per annum as Justice of Assize, and one of the puisne Barons, Almaric de Shirland, getting an additional 40 marks for certain special services. The "Issue Roll of 44 Edward III., 1370," also shows that certain sergeants-at-law acted as Justices of Assize, receiving for their service £20 per annum.

Throughout his reign Edward III. strenuously exerted

acceptance of which he would become the donor's servant), or robes (the assumption of which would be open declaration of service); but he was at liberty to accept the offerings which the public were wont to make to men of his condition, as well as the sums (or "fees," as they would be termed at the present day) due on the different processes of his court. That the word "fee" is thus used in the ordinance may be seen from the words "for this cause we have increased the fees (les feez) of the same justices, in such manner as it ought reasonably to suffice them," by which language attention is drawn to the increase of the judicial salaries.

himself to purge his law courts of abuses, and to secure his subjects from evils wrought by judicial dishonesty; and though there is reason to think that he prosecuted his reforms, and punished offending judges with more impulsiveness than consistency—with petulance rather than firmness[1]—his action must have produced many beneficial results. But it does not seem to have occurred to him that the system adopted by his predecessors, and encouraged by the usages of his own time, was the real source of the mischief, and that so long as judges received the greater part of their remuneration from suitors' fees and the donations of the public, enactments and proclamations would be comparatively powerless to preserve the streams of justice from pollution. The fee-system poisoned the morality of the law-courts. From the highest judge to the lowest usher, every person connected with a court of justice was educated to receive small sums of money for trifling services, to be always looking out for paltry dues or gratuities, to multiply occasions for demanding, and reasons for pocketing, petty coins, to invent devices for legitimate peculation. In time the system produced such complications of custom, right, privilege, claim, that no one could say definitely how much a suitor was actually bound to pay at each stage of a suit. The fees had an equally bad influence on the public. Trained to approach the king's judges with costly presents, to receive them on their visits with lavish hospitality, to send them offerings at the opening of each year, the rich and the poor learnt to look on judicial decisions as things that were bought and sold. In many cases this impression was not erroneous. Judges were

[1] Mr. Foss observes: "In 1350, William de Thorpe, the Chief Justice of the King's Bench, was convicted on his own confession of receiving bribes to stay justice; but though his property was forfeited to the Crown on his condemnation, the king appears to have relented, and to have made him second Baron of the Exchequer in May, 1352, unless I am mistaken in supposing the latter to have been the same person."

forbidden to accept gifts from actual suitors or to take payment *for* judgment after their delivery; but on the judgment-seat they were too often influenced by recollections of the conduct of suitors who *had been* munificent before the commencement of proceedings, and most probably would be equally munificent six months after delivery of a judgment favorable to their claims. Humorous anecdotes heightened the significance of patent facts. Throughout a shire it would be told how this suitor won a judgment by a sumptuous feast; how that suitor bought the justice's favor with a cask of rare wine, a horse of excellent breed, a hound of superior sagacity.

In the fifteenth century the judge whose probity did not succumb to an excellent dinner was deemed a miracle of virtue. "A lady," writes Fuller of Chief Justice Markham, who was dismissed from his place in 1470, "would traverse a suit of law against the will of her husband, who was contented to buy his quiet by giving her her will therein, though otherwise persuaded in his judgment the cause would go against her. This lady, dwelling in the shire town, invited the judge to dinner, and (though thrifty enough herself) treated him with sumptuous entertainment. Dinner being done, and the cause being called, the judge gave it against her. And when, in passion, she vowed never to invite the judge again, 'Nay, wife,' said he, 'vow never to invite a *just judge* any more.'" It may be safely affirmed that no English lady of our time ever tried to bribe Sir Alexander Cockburn or Sir Frederick Pollock with a dinner *à la Russe*.

By his eulogy of Chief Justice Dyer, who died March 24, 1852, Whetstone gives proof that in Elizabethan England purity was the exception rather than the rule with judges:—

"And when he spake he was in speeche reposde;
His eyes did search the simple suitor's harte;
To put by bribes his hands were ever closde,
His processe juste, he tooke the poore man's parte,
He ruld by law and listened not to arte,
These foes to truthe—loove, hate, and private gain,
Which most corrupt, his conscience could not staine."

There is no reason to suppose that the custom of givi and receiving presents was more general or extravaga in the time of Elizabeth than in previous ages; but t fuller records of her splendid reign give greater pror nence to the usage than it obtained in the chronicles any earlier period of English history. On each N Year's Day her courtiers gave her costly presents jewels, ornaments of gold or silver workmanship, hu dreds of ounces of silver-gilt plate, tapestry, laces, sa dresses, embroidered petticoats. Not only did she acce such costly presents from men of rank and wealth, b she graciously received the donations of tradesmen a menials. Francis Bacon made her majesty "a pc oblation of a garment;" Charles Smith, the dustma threw upon the pile of treasures "two bottes of cambri The fashion thus countenanced by the queen was follow in all ranks of society; all men, from high to low, ceiving presents, as expressions of affection when th came from their equals, as declarations of respect wh they came from their social inferiors. Each of her gr officers of state drew a handsome revenue from su yearly offerings. But though the burdens and abuses this system were excessive under Elizabeth. they creased in enormity and number during the reigns of t Stuarts.

That the salaries of the Elizabethan judges were sm in comparison with the sums which they received presents and fees may be seen from the following Ta of stipends and allowances annually paid, towards t close of the sixteenth century:—

| | £. | s. | d. |
|---|---|---|---|
| "The Lord Cheefe Justice of England:— | | | |
| Fee, Reward, and Robes | 208 | 6 | 8 |
| Wyne, 2 tunnes at £5 the tunne | 10 | 0 | 0 |
| Allowance for being Justice of Assize | 20 | 0 | 0 |
| "The Lord Cheefe Justice of the Common Pleas:— | | | |
| Fee, Reward, and Robes | 141 | 13 | 4 |
| Wyne, two tunnes | 8 | 0 | 0 |
| Allowance as Justice of Assize | 20 | 0 | 0 |
| Fee for keeping the Assize in the Augmentation Court | 12 | 10 | 8 |
| "Each of the three Justices in these two Courts:— | | | |
| Fee, Reward, and Robes | 128 | 6 | 8 |
| Allowance as Justice of Assize | 20 | 0 | 0 |
| "The Lord Cheefe Baron of the Exchequer:— | | | |
| Fee | 100 | 0 | 0 |
| Lyvery | 12 | 17 | 8 |
| Allowance as Justice of Assize | 20 | 0 | 0 |
| "Each of the three Barons:— | | | |
| Fee | 46 | 12 | 4 |
| Lyvery a peece | 12 | 17 | 4 |
| Allowance as Justice of Assize | 20 | 0 | 0" |

Prior to and in the earlier part of Elizabeth's reign, the sheriffs had been required to provide diet and lodging for judges traveling on circuit, each sheriff being responsible for the proper entertainment of judges within the limits of his jurisdiction. This arrangement was very burdensome upon the class from which the sheriffs were elected, as the official host had not only to furnish suitable lodging and cheer for the justices themselves, but also to supply the wants of their attendants and servants. The ostentatious and costly hospitality which law and public opinion thus compelled or encouraged them to exercise towards circuiteers of all ranks had seriously embarrassed a great number of country gentlemen; and the queen was assailed with entreaties for a reform that should free a sheriff of small estate from the necessity of either ruining himself, or incurring a reputation for stinginess. In consequence of these urgent representations, an order of council, bearing date February 21, 1574, decided, "the justices shall have of her majesty several sums of money out of her coffers for their daily

diet." Hence rose the usage of "circuit allowances The sheriffs, however, were still bound to attend upo the judges, and make suitable provision for the safe co duct of the legal functionaries from assize town to assi town;—the sheriff of each county being required to fu nish a body-guard for the protection of the sovereigr representatives. This responsibility lasted till the oth day, when an innovation (of which Mr. Arcedeckne, Glevering Hall, Suffolk, was the most notorious, thoug not the first champion), substituted guards of policeme paid by county-rates, for bands of javelin-men equipp and rewarded by the sheriffs. In some counties tl javelin-men—remote descendants of the mail-clad knigh and stalwart men-at-arms who formerly mustered at tl summons of sheriffs—still do duty with long wands a fresh rosettes; but they are fast giving way to tl wielders of short staves.

Among the bad consequences of the system gratuities was the color which it gave to idle rumo and malicious slander against the purity of uprig judges.

When Sir Thomas More fell, charges of bribery we preferred against him before the Privy Council. disappointed suitor, named Parnell, declared that tl Chancellor had been bribed with a gift-cup to decide favor of his (Parnell's) adversary. Mistress Vaugha the successful suitor's wife, had given Sir Thomas tl cup with her own hands. The fallen Chancellor a mitting that "he had received the cup as a New Yea Gift," Lord Wiltshire cried with unseemly exultatio "Lo! did I not tell you, my lords, that you would fi this matter true?" It seemed that More had plead guilty, for his oath did not permit him to receive a Ne Year's Gift from an actual suitor. "But, my lords continued the accused man, with one of his characterist

smiles, "hear the other part of my tale. After having drunk to her of wine, with which my butler had filled the cup, and when she had pledged me, I restored it to her, and would listen to no refusal." It is possible that Mistress Vaughan did not act with corrupt intention, but merely in ignorance of the rule which forbade the Chancellor to accept her present. As much can not be said in behalf of Mrs. Croker, who, being opposed in a suit to Lord Arundel, sought to win Sir Thomas More's favor by presenting him with a pair of gloves containing forty angels. With a courteous smile he accepted the gloves, but constrained her to take back the gold. The gentleness of this rebuff is charming; but the story does not tell more in favor of Sir Thomas than to the disgrace of the lady and the moral tone of the society in which she lived.

Readers should bear in mind the part which New Year's Gifts and other customary gratuities played in the trumpery charges against Lord Bacon. Adopting an old method of calumny, the conspirators against his fair fame represented that the gifts made to him, in accordance with ancient usage, were bribes. For instance, Reynel's ring, presented on New Year's Day, was so construed by the accusers; and in his comment upon the charge, Bacon, who had inadvertently accepted the gift during the progress of a suit, observes, "This ring was received certainly *pendente lite*, and though it were at New Year's tide, yet it was too great a value for a New Year's Gift, though, as I take it, nothing near the value mentioned in the articles." So also Trevor's gift was a New Year's present, of which Bacon says, "I confess and declare that I received at New Year's tide an hundred pounds from Sir John Trevor, and because it came as a New Year's Gift, I neglected to inquire whether the cause was ended or depending; but since I find that

though the cause was then dismissed to a trial at law, yet the equity is reserved, so as it was in that kind *pendente lite*." Bacon knew that this explanation would be read by men familiar with the history of New Year's Gifts, and all the circumstances of the ancient usage; and it is needless to say that no man of honor thought the less highly of Bacon at the time, because his pure and guiltless acceptance of customary presents was by ingenious and unscrupulous adversaries made to assume an appearance of corrupt compliance.

How far the Chancellors of the sixteenth and seventeenth centuries depended upon customary gratuities for their revenues may be seen from facts which show the degree of state which they were required to maintain, and the inadequacy of the ancient fees for the maintenance of that pomp. When Elizabeth pressed Hatton for payment of the sums which he owed her, the Chancellor lamented his inability to liquidate her just claims, and urged in excuse that the *ancient fees* were very inadequate to the expenses of the Chancellor's office. But though Elizabethan Chancellors could not live upon their ancient fees, they kept up palaces in town and country, fed regiments of lackeys, and surpassed the ancient nobility in the grandeur of their equipages. Egerton — the needy and illegitimate son of a rural knight, a lawyer who fought up from the ranks—not only sustained the costly dignities of office, but left to his descendants a landed estate worth £8,000 per annum. Bacon's successor in the "marble chair," Lord Keeper Williams, assured Buckingham that in Egerton's time the Chancellor's lawful income was less than three thousand per annum. "The lawful revenue of the office stands thus," wrote Williams, speaking from his intimate knowledge of Ellesmere's affairs, "or not much above it at any time:—In fines certain, £1,300 per annum, or there-

abouts; in fines casual, £1,250, or thereabouts; in greater writs, £140; for impost of wine, £100—in all, £2,790; and these are all the true means of that great office." It is probable that Williams under-stated the revenue, but it is certain that the income, apart from gratuities, was insufficient.

The Chancellor was not more dependant on customary gratuities than the Chiefs of the three Common-Law courts. At Westminster and on circuit, whenever he was required to discharge his official functions, the English judge extended his hand for the contributions of the well-disposed. No one thought of blaming judges for their readiness to take customary benevolences. To take gifts was a usage of the profession, and had its parallel in the customs of every calling and rank of life. The clergy took dues in like manner: from the earliest days of feudal life the territorial lords had supplied their wants in the same way; among merchants and yoeman, petty traders and servants, the system existed in full force. These presents were made without any secrecy. The aldermen of borough towns openly voted presents to the judges; and the judges received their offerings—not as benefactions, but as legitimate perquisites. In 1620—just a year before Lord Bacon's fall—the municipal council of Lyme Regis left it to the "mayor's discretion" to decide "what gratuity he will give to the Lord Chief Baron and his men" at the next assizes. The system, it is needless to say, had disastrous results. Empowering the chief judge of every court to receive presents not only from the public, but from subordinate judges, inferior officers, and the bar; and moreover empowering each place-holder to take gratuities from persons officially or by profession concerned in the business of the courts, it produced a complicated machinery for extortion. By presents the chief justices bought their

places from the crown or a royal favorite; by presents the puisne justices, registrars, counsel bought place or favor from the chief; by presents the attorneys, sub-registrars, and outside public sought to gain their ends with the humbler place-holders. The meanest ushers of Westminster Hall took coins from ragged scriveners. Hence every place was actually bought and sold, the sum being in most cases very high. Sir James Ley offered the Duke of Buckingham £10,000 for the Attorney's place. At the same period the Solicitor-General's office was sold for £4,000. Under Charles I. matters grew still worse than they had been under his father. When Sir Charles Cæsar consulted Laud about the worth of the vacant Mastership of the Rolls, the archbishop frankly said, "that as things then stood, the place was not likely to go without more money than he thought any wise man would give for it." Disregarding this intimation, Sir Charles paid the king £15,000 for the place, and added a loan of £2,000. Sir Thomas Richardson, at the opening of the reign, gave £17,000 for the Chiefship of the Common Pleas. If judges needed gifts before the days when vacant seats were put up to auction, of course they stood all the more in need of them when they bought their promotions with such large sums. It is not wonderful that the wearers of ermine repaid themselves by venal practices. The sale of judicial offices was naturally followed by the sale of judicial decisions. The judges having submitted to the extortions of the king, the public had to endure the extortions of the judges. Corruption on the bench produced corruption at the bar. Counsel bought the attention and compliance of "the court," and in some cases sold their influence with shameless rascality. They would take fees to speak from one side in a cause, and fees to be silent from the other side—selling their own clients as coolly as judges sold the suitors of their

courts. Sympathizing with the public, and stung by personal experience of legal dishonesty, the clergy sometimes denounced from the pulpit the extortions of corrupt judges and unprincipled barristers. The assize sermons of Charles I.'s reign were frequently seasoned with such animadversions. At Thetford Assizes, March 1630, the Rev. Mr. Ramsay, in the assize-sermon, spoke indignantly of judges who "favored causes," and of "counselors who took fees to be silent." In the summer of 1631, at the Bury Assizes, "one Mr. Scott made a sore sermon in discovery of corruption in judges and others." At Norwich, the same authority, viz., "Sir John Rous's Diary," informs us—"Mr. Greene was more plaine, insomuch that Judge Harvey, in his charge, broke out thus: 'It seems by the sermon that we are corrupt, but we know that we can use conscience in our places as well as the best clergieman of all.'"

In his "Life and Death of Sir Matthew Hale," Bishop Burnet tells a good story of the Chief's conduct with regard to a customary gift. "It is also a custom," says the biographer, "for the Marshal of the King's Bench to present the judges of that court with a piece of plate for a New Year's Gift, that for the Chief Justice being larger than the rest. This he intended to have refused, but the other judges told him it belonged to his office, and the refusing it would be a prejudice to his successors; so he was persuaded to take it, but he sent word to the marshal, that instead of plate he should bring him the value of it in money, and when he received it, he immediately sent it to the prisons for the relief and discharge of the poor there."

## CHAPTER XXXII.

BY degrees the public ceased to make presents to the principal judges of the kingdom; but long after the Chancellor and the three Chiefs had taken the last offerings of general society, they continued to receive yearly presents from the subordinate judges, placemen, and barristers of their respective courts. Lord Cowper deserves honor for being the holder of the seals who, by refusing to pocket these customary donations, put an end to a very objectionable system, so far as the Court of Chancery was concerned.

On being made Lord Keeper, he resolved to depart from the custom of his predecessors for many generations, who on the first day of each new year had invariably entertained at breakfast the persons from whom tribute was looked for. Very droll were these receptions in the old time. The repast at an end, the guests forthwith disburdened themselves of their gold—the payers approaching the holder of the seals in order of rank, and laying on his table purses of money, which the noble payee accepted with his own hands. Sometimes his lordship was embarrassed by a ceremony that required him to pick gold from the fingers of men, several of whom he knew to be in indigent circumstances. In Charles II.'s time it was observed that the silver-tongued Lord Nottingham on such occasions always endeavored to hide his confusion under a succession of nervous smiles and exclamations—"Oh, Tyrant Cuthom!—Oh, Tyrant Cuthom!"

It is noteworthy that in relinquishing the benefit of these exactions, the Lord Keeper feared unfriendly criticism much more than he anticipated public commendation. In his diary, under date December 30, Cowper wrote:—"I acquainted my Lord Treasurer with my

design to refuse New Year's Gifts, if he had no objection against it, as spoiling, in some measure, a place of which he had the conferring. He answered it was not expected of me, but that I might do as my predecessors had done; but if I refused, he thought nobody could blame me for it." Anxious about the consequences of his innovation, the new Lord Keeper gave notice that on January 1, 1705–6, he would receive no gifts; but notwithstanding this proclamation, several officers of Chancery and counselors came to his house with tribute, and were refused admittance "New Year's Gifts turned back," he wrote in his diary at the close of the eventful day, "and pray God it doth me more credit and good than hurt, by making secret enemies *in fœce Romuli.*" His fears were in a slight degree fulfilled. The Chiefs of the three Common-Law Courts were greatly displeased with an innovation which they had no wish to adopt; and their warm expressions of dissatisfaction induced the Lord Keeper to cover his disinterestedness with a harmless fiction. To pacify the indignant Chiefs and the many persons who sympathized with them, he pretended that though he had declined intentionally the gifts of the Chancery barristers, he had not designed to exercise the same self-denial with regard to the gifts of Chancery officers.[1]

The common-law chiefs were slow to follow in the Lord Keeper's steps, and many years passed before the reform, effected in Chancery by accident or design, or by a lucky

[1] It should be observed that many persons are of opinion that the Lord Keeper's assertion on this point was not an artifice, but a simple statement of fact. To those who take this view, his lordship's position seems alike ridiculous and respectable—respectable, because he actually intended to forbear from taking the barristers' money; ridiculous, because through clumsy and inadequate arrangements, he missed the other and not less precious gifts which he did not mean to decline. Anyhow, the critics admit that credit is due to him for persisting in a change—wrought in the first instance partly by honorable design and partly by accident.

combination of both, was adopted in the other great courts. In his memoir of Lord Cowper, Campbell observes: "His example with respect to New Year's Gifts was not speedily followed; and it is said that till very recently the Chief Justice of the Common Pleas invited the officers of his court to a dinner at the beginning of the year, when each of them deposited under his plate a present in the shape of a Bank of England note, instead of a gift of oxen roaring at his levee, as in ruder times." There is no need to remind the reader in this place of the many veracious and the many apocryphal stories concerning the basket justices of Fielding's time,—stories showing that in law courts of the lowest sort applicants for justice were accustomed to fee the judges with victuals and drink until a comparatively recent date.

Lucky would it have been for the first Earl of Macclesfield if the custom of selling places in Chancery had been put an end to forever by the Lord Keeper who abolished the custom of New Year's Gifts; but the judge who at the sacrifice of one-fourth of his official income swept away the pernicious usage which had from time immemorial marked the opening of each year, saw no reason why he should purge Chancery of another scarcely less objectionable practice. Following the steps of their predecessors, the Chancellors Cowper, Harcourt, and Macclesfield sold subordinate offices in their court; but whereas all previous Chancellors had been held blameless for so doing, Lord Macclesfield was punished with official degradation, fine, imprisonment, and obloquy.

By birth as humble[1] as any layman who before or since his time has held the seals, Thomas Parker raised himself to the woolsack by great talents and honorable

[1] The cases of John Scott, Philip Yorke, and Edward Sugden are before the mind of the present writer, when he pens the sentence to which this note refers. The social extraction of the English bar will be considered in a later chapter of this work.

industry. As an advocate he won the respect of society and his profession; as a judge he ranks with the first expositors of English law. Although for imputed corruption he was hurled with ignominy from his high place, no one has ventured to charge him with venality on the bench. That he was a spotless character, or that his career was marked by grandeur of purpose, it would be difficult to establish; but few Englishmen could at the present time be found to deny that he was in the main an upright peer, who was not wittingly neglectful of his duty to the country which had loaded him with wealth and honors.

Among the many persons ruined by the bursting of the South Sea Bubble were certain Masters of Chancery, who had thrown away on that wild speculation large sums of which they were the official guardians. Lord Macclesfield was one of the victims on whom the nation wreaked its wrath at a crisis when universal folly had produced universal disaster. To punish the masters for their delinquencies was not enough; greater sacrifices than a few comparatively obscure placemen were demanded by the suitors and wards whose money had been squandered by the fraudulent trustees. The Lord Chancellor should be made responsible for the Chancery defalcations. That was the will of the country. No one pretended that Lord Macclesfield had originated the practice which permitted Masters in Chancery to speculate with funds placed under their care; attorneys and merchants were well aware that in the days of Harcourt, Cowper, Wright, and Somers, it had been usual for masters to pocket interest accruing from suitors' money; notorious also was it that, though the Chancellor was theoretically the trustee of the money confided to his court, the masters were its actual custodians. Had the Chancellor known that the masters were trafficking in dangerous investments to the probable loss

of the public, duty would have required him to examine their accounts and place all trust-moneys beyond their reach: but until the crash came, Lord Macclesfield knew neither the actual worthlessness of the South Sea Stock, nor the embarrassed circumstances of the defaulting masters, nor the peril of the persons committed to his care. The system which permitted the masters to speculate with money not their own was execrable, but the Lord Chancellor was not the parent of that system.

Infuriated by the national calamity, in which they were themselves great sufferers, the Commons impeached the Chancellor, charging him with high crimes and misdemeanors, of which the peers unanimously declared him guilty. In this famous trial the great fact established against his lordship was that he had sold masterships to the defaulters. It appeared that he had not only sold the places, but had stood out for very high prices; the inference being, that in consideration of these large sums, he had left the purchasers without the supervision usually exercised by Chancellors over such officers, and had connived at the practices which had been followed by ruinous results. To this it was replied, that if the Chancellor had sold the places at higher prices than his predecessors, he had done so because the places had become much more valuable; that at the worst he had but sold them to the highest bidder, after the example of his precursors; that the inference was not supported by any direct testimony.

Very humorous was some of the evidence by which the sale of the masterships was proved. Master Elde deposed that he bought his office for 5,000 guineas, the bargain being finally settled and fulfilled after a personal interview with the accused lord. Master Thurston, another purchaser at the high rate of 5,000 guineas, paid his money to Lady Macclesfield. It must be owned that

these sums seem very large, but their magnitude does not fix fraudulent purposes upon the Chancellor. That he believed himself fairly entitled to a moderate present on appointing to a mastership is certain; that he regarded £2,000 as the gratuity which he might accept, without blushing at its publication, may be inferred from the restitution of £3,250 at a time when he anticipated an inquiry into his conduct; that he felt himself acting indiscreetly if not wrongfully in pressing for such large sums is testified by the caution with which he conferred with the purchasers, and the secrecy with which he accepted their money.

His defense before the peers admitted the sales of the places, but maintained that the transactions were legitimate.

The defense was of no avail. When the question of guilty or not guilty was put to the peers, each of the noble lords present answered "Guilty, upon my honor." Sentenced to pay a fine of £30,000, and undergo imprisonment until the mulct was paid, the unfortunate statesman bitterly repented the imprudence which had exposed him to the vengeance of political adversaries and to the enmity of the vulgar. While the passions roused by the prosecution were at their height, the fallen Chancellor was treated with much harshness by Parliament, and with actual brutality by the mob. Ever ready to vilify lawyers, the rabble seized on so favorable an occasion for giving expression to one of their strongest prejudices. Among the crowds who followed the Earl to the Tower with curses, voices were heard to exclaim that "Staffordshire had produced the three greatest scoundrels of England—Jack Sheppard, Jonathan Wilde, and Tom Parker." Jonathan Wilde was executed in 1725—the year of Lord Macclesfield's impeachment; and Jack Sheppard died on the gallows at Tyburn, November 16, 1724.

Throughout the inquiry and after the adverse verdict George I. persisted in showing favor to the disgraced Chancellor; and when the violent emotions of the crisis had passed away it was generally admitted by enlightened critics of public events that Lord Macclesfield had been unfairly treated. The scape-goat of popular wrath, he suffered less for his own faults, than for the evil result of a bad system; and at the present time—when the silence of more than a hundred and thirty years rests upon his tomb—Englishmen, with one voice, acknowledge the valuable qualities that raised him to eminence and regret the proceedings which consigned him in his old age to humiliation and gloom.

## CHAPTER XXXIII.

"APRONENESS to take bribes may be generated from the habit of taking fees," said Lord Keeper Williams in his Inaugural Address, making an ungenerous allusion to Francis Bacon, while he uttered a statement which was no calumny upon King James's Bench and Bar, though it is signally inapplicable to lawyers of the present day.

Of Williams, tradition preserves a story that illustrates the prevalence of judicial corruption in the seventeenth century, and the jealousy with which that Right Reverend Lord Keeper watched for attempts to tamper with his honesty. While he was taking exercise in the Great Park of Nonsuch House, his attention was caught by a church recently erected at the cost of a rich Chancery suitor. Having expressed satisfaction with the church Williams inquired of George Minors, "Has he not a suit depending in Chancery?" and on receiving an answer in the affirmative, observed, "he shall not fare the worse for

building of churches." These words being reported to the pious suitor, he not illogically argued that the Keeper was a judge likely to be influenced in making his decision by matters distinct from the legal merits of the case put before him. Acting on this impression, the good man forthwith sent messengers to Nonsuch House, bearing gifts of fruits and poultry to the holder of the seals. "Nay, carry them back," cried the judge, looking with a grim smile from the presents to George Minors; "Nay, carry them back, George, and tell your friend that he shall not fare the better for sending of presents."

Rich in satire directed against law and its professors, the literature of the Commonwealth affords conclusive testimony of the low esteem in which lawyers were held in the seventeenth century by the populace, and shows how universal was the belief that wearers of ermine and gentlemen of the long robe would practice any sort of fraud or extortion for the sake of personal advantage. In the pamphlets and broadsides, in the squibs and ballads of the period, may be found a wealth of quaint narrative and broad invective, setting forth the rascality of judges and attorneys, barristers and scriveners. Any literary effort to throw contempt upon the law was sure of success. The light jesters, who made merry with the phraseology and costumes of Westminster Hall, were only a few degrees less welcome than the stronger and more indignant scribes who cried aloud against the sins and sinners of the courts. When simple folk had expended their rage in denunciations of venal eloquence and unjust judgments, they amused themselves with laughing at the antiquated verbiage of the rascals who sought to conceal their bad morality under worse Latin. "A New Modell, or the Conversion of the Infidell Terms of the Law: For the Better promoting of misunderstanding according to Common Sense," is a publication consisting of a cover or

fly-leaf and two leaves, that appeared about a year before the Restoration. The wit is not brilliant; its humor is not free from uncleanness; but its comic renderings[1] of a hundred law terms illustrate the humor of the times.

More serious in aim, but not less comical in result is William Cole's "A Rod for the Lawyers. London, Printed in the year 1569." The preface of this mad treatise ends thus:—"I do not altogether despair but that before I dye I may see the Inns of Courts, or Dens of Thieves, converted into Hospitals, which were a rare piece of justice; that as they formerly have immured those that robbed the poor of houses, so they may at last preserve the poor themselves."

Another book touching on the same subject, and belonging to the same period, is, "Sagrir, or Doomsday drawing nigh; With Thunder and Lightning to Lawyers, (1653) by John Rogers."

Violent, even for a man holding Fifth-Monarchy views, John Rogers prefers a lengthy indictment against lawyers, for whose delinquencies and heinous offenses he admits neither apology nor palliation. In his opinion all judges deserve the death of Arnold and Hall, whose last moments were provided for by the hangman. The wearers of the long robe are perjurers, thieves, enemies of mankind; their institutions are hateful, and their usages abominable. In olden time they were less powerful and rapacious. But prosperity soon exaggerated all their evil qualities. Sketching the rise of the profession, the author observes—"These men would get sometimes Parents, Friends, Brothers, Neighbors, sometimes *others* to be (in their absence) Agents, Factors, or Solicitors for them at

[1] Of these renderings the subjoined may be taken as favorable specimens:—"Breve originale, original sinne; capias, a catch to a sad tune; alias capias, another to the same (sad tune); habeas corpus, a trooper; capias ad satisfaciend., a hangman; latitat, bo-peep; nisi prius, first come first served; demurrer, hum and haw; scandal. magnat., down with the Lords."

Westminster, and as yet they had no stately houses or mansions to live in, as they have now (called Inns of Court), but they lodged like countrymen or strangers in ordinary Inns. But afterwards, when the interests of lawyers began to look big (as in Edward III.'s days), they got mansions or colleges, which they called Inns, and by the king's favor had an addition of honor, whence they were called Inns of Court."[1]

The familiar anecdotes which are told as illustrations of Chief Justice Hale's integrity are very ridiculous, but they serve to show that the judges of his time were believed to be very accessible to corrupt influences. During his tenure of the Chiefship of the Exchequer, Hale rode the Western Circuit, and met with the loyal reception usually accorded to judges on circuit in his day. Among other attentions offered to the judges on this occasion was a present of venison from a wealthy gentleman who was concerned in a cause that was in due course called for hearing. No sooner was the call made than Chief Baron Hale resolved to place his reputation for judicial honesty above suspicion, and the following scene occurred:—

"*Lord Chief Baron.*—'Is this plaintiff the gentleman of the same name who hath sent me the venison?' *Judge's servant.*—'Yes, please you, my lord.' *Lord Chief Baron.*—'Stop a bit, then. Do not yet swear the jury. I can not allow the trial to go on till I have paid him for his buck!' *Plaintiff.*—'I would have your lordship to know that neither myself nor my forefathers have ever sold venison, and I have done nothing to your lordship which we hath not done to every judge that has come this circuit for centuries bygone.' *Magistrate of the*

[1] Even vacations stink in the nostrils of Mr. Rogers; for he maintains that they are not so much periods when lawyers cease from their odious practices, as times of repose and recreation wherein they gain fresh vigor and daring for the commission of further outrages, and allow their unhappy victims to acquire just enough wealth to render them worth the trouble of despoiling.

*County.*—'My lord, I can confirm what the gentleman says for truth, for twenty years back.' *Other Magistrates.*—'And we, my lord, know the same.' *Lord Chief Baron.*—'That is nothing to me. The Holy Scripture says, "A gift perverteth the ways of judgment." I will not suffer the trial to go on till the venison is paid for. Let my butler count down the full value thereof.' *Plaintiff.*—'I will not disgrace myself and my ancestors by becoming a venison butcher. From the needless dread of *selling* justice, your lordship *delays* it. I withdraw my record.'"

As far as good taste and dignity were concerned, the gentleman of the West Country was the victor in this absurd contest: on the other hand, Hale had the venison for nothing, and was relieved of the trouble of hearing the cause.

In the same manner Hale insisted on paying for six loaves of sugar which the Dean and Chapter of Salisbury sent to his lodgings, in accordance with ancient usage. Similar cases of the judge's readiness to construe courtesies as bribes may be found in notices of trials and books of *ana*.

*A propos* of these stories of Hale's squeamishness, Lord Campbell tells the following good anecdote of Baron Graham: "The late Baron Graham related to me the following anecdote to show that he had more firmness than Judge Hale: 'There was a baronet of ancient family with whom the judges going the Western Circuit had always been accustomed to dine. When I went that circuit I heard that a cause, in which he was plaintiff, was coming on for trial: but the usual invitation was received, and lest the people might suppose that judges could be influenced by a dinner, I accepted it. The defendant, a neighboring squire, being dreadfully alarmed by this intelligence, said to himself. 'Well, if Sir John

entertains the judge hospitably, I do not see why I should not do the same by the jury.' So he invited to dinner the whole of the special jury summoned to try the cause. Thereupon the baronet's courage failed him, and he withdrew the record, so that the cause was not tried; and, although I had my dinner, I escaped all suspicion of partiality."

This story puts the present writer in mind of another story which he has heard told in various ways, the wit of it being attributed by different narrators to two judges who have left the bench for another world, and a Master of Chancery who is still alive. On the present occasion the Master of Chancery shall figure as the humorist of the anecdote.

Less than twenty years since, in one of England's southern counties, two neighboring landed proprietors differed concerning their respective rights over some uninclosed land, and also about certain rights of fishing in an adjacent stream. The one proprietor was the richest baronet, the other the poorest squire, of the county; and they agreed to settle their dispute by arbitration. Our Master in Chancery, slightly known to both gentlemen, was invited to act as arbitrator after inspecting the localities in dispute. The invitation was accepted and the master visited the scene of disagreement, on the understanding that he should give up two days to the matter. It was arranged that on the first day he should walk over the squire's estate, and hear the squire's uncontradicted version of the case, dining at the close of the day with both contendents at the squire's table; and that on the second day, having walked over the baronet's estate, and heard without interruption the other side of the story, he should give his award, sitting over wine after dinner at the rich man's table. At the close of the first day the squire entertained his wealthy neighbor and the arbitra-

tor at dinner. In accordance with the host's means, the dinner was modest but sufficient. It consisted of three fried soles, a roast leg of mutton, and vegetables; three pancakes, three pieces of cheese, three small loaves of bread, ale, and a bottle of sherry. On the removal of the viands, three magnificent apples, together with a magnum of port, were placed on the table by way of dessert. At the close of the second day the trio dined at the baronet's table, when it appeared that, struck by the simplicity of the previous day's dinner and rightly attributing the absence of luxuries to the narrowness of the host's purse, the wealthy disputant had resolved not to attempt to influence the umpire by giving him a superior repast. Sitting at another table the trio dined on exactly the same fare,—three fried soles, a roast leg of mutton, and vegetables; three pancakes, three pieces of cheese, three small loaves of bread, ale, and a bottle of sherry; and for dessert three magnificent apples, together with a magnum of port. The dinner being over, the apples devoured, and the last glass of port drunk, the arbitrator (his eyes twinkling brightly as he spoke) introduced his award with the following exordium:—"Gentlemen, I have with all proper attention considered your *sole* reasons: I have taken due notice of your *joint* reasons: and I have come to the conclusion that your *des(s)erts* are about equal."

## CHAPTER XXXIV.

ONE of the strangest cases of corruption among English judges still remains to be told on the slender authority which is the sole foundation of the weighty accusation. In comparatively recent times there have not been many eminent Englishmen to whom "tra-

dition's simple tongue" has been more hostile than Queen Elizabeth's Lord Chief Justice, Popham. The younger son of a gentle family, John Popham passed from Oxford to the Middle Temple, raised himself to the honors of the ermine, secured the admiration of illustrious contemporaries, in his later years gained abundant praise for wholesome severity towards foot-pads, and at his death left behind him a name—which, tradition informs us, belonged to a man who in his reckless youth, and even after his call to the bar, was a cut-purse and highwayman. In mitigation of his conduct it is urged by those who credit the charge, that young gentlemen of his date were so much addicted to the lawless excitement of the road, that when he was still a beardless stripling, an act (1 Ed. VI. c. 12, s. 14) was passed whereby any peer of the realm or lord of parliament, on a first conviction for robbery, was entitled to benefit of clergy, though he could not read. But bearing in mind the liberties which rumor is wont to take with the names of eminent persons, the readiness the multitude always display to attribute light morals to grave men, and the infrequency of the cases where a dissolute youth is the prelude to a manhood of strenuous industry and an old age of honor—the cautious reader will require conclusive testimony before he accepts Popham's connection with "the road" as one of the unassailable facts of history.

The authority for this grave charge against a famous judge is John Aubrey, the antiquary, who was born in 1627, just twenty years after Popham's death. "For severall yeares," this collector says of the Chief Justice, "he addicted himself but little to the studie of the lawes, but profligate company, and was wont to take a purse with them. His wife considered her and his condition, and at last prevailed with him to lead another life and to stick to the studie of the lawe, which, upon her importu-

nity, he did, being then about thirtie years old." A
Popham was born in 1531, he withdrew, according
this account, from the company of gentle highwaym
about the year 1561—more than sixty years befo
Aubrey's birth, and more than a hundred years befo
the collector committed the scandalous story to writin
The worth of such testimony is not great. Good stori
are often fixed upon eminent men who had no part
the transactions thereby attributed to them. If th
writer were to put into a private note-book a pleasa
but unauthorized anecdote imputing *kleptomania*
Chief Justice Willes (who died in 1761), and fifty yea
hence the note-book should be discovered in a dirty co
ner of a forgotten closet and published to the world
would readers in the twentieth century be justified
holding that Sir John Willes was an eccentric thief?

But Aubrey tells a still stranger story concernin
Popham, when he sets forth the means by which th
judge made himself lord of Littlecote Hall in Wiltshir
The case must be given in the narrator's own word
"Sir Richard Dayrell of Littlecot in com. Wilts. havin
got his lady's waiting-woman with child, when her trav
came sent a servant with a horse for a midwife, who
he was to bring hoodwinked. She was brought, and lay
the woman; but as soon as the child was borne, she sa
the knight take the child and murther it, and burn it
the fire in the chamber. She having done her busine
was extraordinarily rewarded for her paines, and we
blindfold away. This horrid action did much run in h
mind, and she had a desire to discover it, but knew n
where 'twas. She considered with herself the time s
was riding, and how many miles she might have rode
that rate in that time, and that it must be some gre
person's house, for the room was twelve-foot high: a
she should know the chamber if she sawe it. She we

to a justice of peace, and search was made. The very chamber found. The knight was brought to his tryall; and, to be short, this judge had this noble house, park, and manor, and (I think) more, for a bribe to save his life. Sir John Popham gave sentence according to lawe, but being a great person and a favorite, he procured a *nolle prosequi.*"

This ghastly tale of crime following upon crime has been reproduced by later writers with various exaggerations and modifications. Dramas and novels have been founded upon it; and a volume might be made of the ballads and songs to which it has given birth. In some versions the corrupt judge does not even go through the form of passing sentence, but secures an acquittal from the jury; according to one account, the mother, instead of the infant, was put to death; according to another, the erring woman was the murderer's daughter, instead of his wife's waiting-woman; another writer assuming credit as a conscientious narrator of facts, places the crime in the eighteenth instead of the sixteenth century, and transforms the venal judge into a clever barrister.

In a highly seasoned statement of the repulsive tradition communicated by Lord Webb Seymour to Walter Scott, the murder is described with hideous minuteness.

Changing the midwife into "a Friar of orders grey," and murdering the mother instead of the baby, Sir Walter Scott revived the story in one of his most popular ballads. But of all the versions of the tradition that have come under this writer's notice, the one that departs most widely from Aubrey's statement is given in Mr. G. L. Rede's "Anecdotes and Biography" (1799).

## CHAPTER XXXV.

FOR the last three hundred years the law has bee lucrative profession, our great judges during t period having in many instances left behind them la fortunes, earned at the bar or acquired from offi emoluments. The rental of Egerton's landed esta was £8,000 per annum—a royal income in the days Elizabeth and James. Maynard left great wealth to granddaughters, Lady Hobart, and Mary, Countess Stamford. Lord Mansfield's favorite investment v mortgage; and towards the close of his life the inco which he derived for moneys lent on sound mortga was £30,000 per annum. When Lord Kenyon had l his eldest son, he observed to Mr. Justice Allan Park "How delighted George would be to take his p brother from the earth and restore him to life, althou he receives £250,000 by his decease." Lord Eld is said to have left to his descendants £500,000; a his brother, Lord Stowell, whom we are indebted the phrase, "the elegant simplicity of the Three Cents.," also acquired property that at the time of death yielded £12,000 per annum.

Lord Stowell's personalty was sworn under £230,0 and he had invested considerable sums in land. It noteworthy that this rich lawyer did not learn to be c tented with the moderate interest of the Three per Cen until he had sustained losses from bad speculatio Notable also is it that this rich lawyer—whose notoric satisfaction with three per cent. interest has gained him a reputation of noble indifference to gain—was ordinately fond of money.

These great fortunes were raised from fees taken practice at the bar, from judicial salaries or pensions, a

from other official gains—such as court dues, perquisites, sinecures, and allowances. Since the Revolution of 1688 these last-named irregular or fluctuating sources of judicial income have steadily diminished, and in the present day have come to an end. Eldon's receipts during his tenure of the seals can not be definitely stated, but more is known about them and his earnings at the bar than he intended the world to discover, when he declared in Parliament "that in no one year since he had been made Lord Chancellor had he received the same amount of profit which he enjoyed while at the bar." While he was Attorney-General he earned something more than £10,000 a year; and in returns which he himself made to the House of Commons, he admits that in 1810 he received, as Lord Chancellor, a gross income of £22,720, from which sum, after deduction of all expenses, there remained a net income of £17,000 per annum. He was enabled also to enrich the members of his family with presentations to office, and reversions of places.

Until comparatively recent times judges were dangerously dependent on the king's favor; for they not only held their offices during the pleasure of the crown, but on dismissal they could not claim a retiring pension. In the seventeenth century an aged judge, worn out by toil and length of days, was deemed a notable instance of royal generosity, if he obtained a small allowance on relinquishing his place in court. Chief Justice Hale on his retirement was signally favored when Charles II. graciously promised to continue his salary to the end of his life—which was manifestly near its close. Under the Stuarts, the judges who lost their places for courageous fidelity to law were wont to resume practice at the bar. To provide against the consequences of ejection from office, great lawyers, before they consented to exchange the gains of advocacy for the uncertain advantages of the

woolsack, used to stipulate for special allowances ove and above the ancient emoluments of places. Lord Not tingham had an allowance of £4,000 per annum; an Lord Guildford, after a struggle for better terms, was cor strained, at the cost of mental serenity, to accept th seals with a special salary of half that sum.[1]

From 1688 down to the present time the chronicler c changes in the legal profession has to notice a successic of alterations in the system and scale of judicial pay ment—all of the innovations having a tendency to rais the dignity of the bench. Under William and Mary a allowance (still continued) was made to holders of th seal on their appointment, for the cost of outfit and equi ages. The amount of this special aid was £2,000, b fees reduced it to £1,843 13*s*. Mr. Foss observes—"Th earliest existing record of this allowance is dated June 1700, when Sir Nathan Wright was made Lord Keepe which states it to be the same sum as had been allowe to his predecessor."

At the same period the salary of a puisne judge w but £1,000 a year—a sum that would have been alt gether insufficient for his expenses. A considerable pa of a puisne's remuneration consisted of fees, perquisite and presents. Among the customary presents to judg at this time may be mentioned the *white gloves* which m convicted of manslaughter presented to the judges wh they pleaded the king's pardon; the *sugar loaves* whi the warden of the fleet annually sent to the judges the Common Pleas; and the almanacs yearly distribut among the occupants of the bench by the Statione Company. From one of these almanacs, in which Jud Rokeby kept his accounts, it appears that in the year 16

[1] During the Commonwealth the people unwilling to pay their jud liberally, decided that a thousand a year was a sufficient income for a L Commissioner of the Great Seal.

the casual profits of his place amounted to £694 4*s.* 6*d.* Here is the list of his official incomes (net) for ten years; —in 1689, £1,378 10*s.*; in 1690, £1,475 10*s.* 10*d.*; in 1691, £2,063 18*s.* 4*d.*; in 1692, £1,570 1*s* 4*d.*; in 1693, £1,569 13*s.* 1*d.*; in 1694, £1,629 4*s.* 6*d.*; in 1695, £1,443 7*s.* 6*d.*; in 1696, £1,478 2*s.* 6*d.*; in 1697, £1,498 11*s.* 11*d.*; in 1698, £1,631 10*s.* 11*d.* The fluctuation of the amounts in this list is worthy of observation; as it points to one bad consequence of the system of paying judges by fees, gratuities, and uncertain perquisites. A needy judge, whose income in lucky years was over two thousand pounds, must have been sadly pinched in years when he did not receive fifteen hundred.

Under the heading, "The charges of my coming into my judge's place, and the taxes upon it the 1st yeare and halfe," Judge Rokeby gives the following particulars:—

"1689, May 11. To Mr Milton, Deputy Clerk of the Crown, as per note, for the patent and swearing privately, £21 6*s.* 4*d.* May 30. To Mr English, charges of the patent at the Secretary of State's Office, as per note, said to be a new fee, £6 10*s.* Inrolling the patent in Exchequer and Treasury, £2 3*s.* 4*d.* Ju. 27. Wine given as a judge, as per vintner's note, £23 19*s.* Ju. 24. Cakes given as a judge, as per vintner's note, £5 14*s.* 6*d.* Second-hand judge's robes, with some new lining, £31. Charges for my part of the patent for our salarys, to Aaron Smith, £7 15*s.*, and the dormant warrant, £3—£10 15*s.*—£101 8*s.* 2*d.*

"Taxes, £420.

"The charges of my being made a sergeant-at-law, and of removing myselfe and family to London, and a new coach and paire of horses, and of my knighthood (all which were within the first halfe yeare of my coming from York), upon the best calculation I can make of them, were att least £600."

Concerning the expenses attendant upon his remov from the Common Pleas to the King's Bench in 1695 a removal which had an injurious result upon his incor —the judge records: "Nov. 1. To Mr Partridge, t Crier of King's Bench, claimed by him as a fee due the 2 criers, £2. Nov. 12. To Mr Ralph Hall, in fi of the Clerk of the Crown's bill for my patent, and swea ing at the Lord Keeper's, and passing it through tl offices, £28 14*s.* 2*d.* Dec. 6. To Mr Carpenter, tl Vintner, for wine and bottles, £22 10*s.* 6*d.* To Gwi the Confectioner, for cakes, £5 3*s.* 6*d.* To Mr Mand (h clerk) which he paid att the Treasury and att the pe for my patent, allowed there, £1 15*s.* Tot. £60 2*s.* 8*d* The charges for wine and cakes were consequences of custom which required a new judge to send biscuits ar macaroons, sack and claret, to his brethren of the benc

In the reign of George I. the salaries of the commo law judges were raised—the pensions of the chiefs beir doubled, and the *puisnes* receiving fifteen hundred instea of a thousand pounds.

Cowper's incomes during his tenure of the seals varie between something over seven and something under nir thousand per annum: but there is some reason to belie that on accepting office he stipulated for a handson yearly salary, in case he should be called upon to reli quish the place. Evelyn, not a very reliable authorit but still a chronicler worthy of notice even on questio of fact, says—"Oct. 1705. Mr Cowper made Lo Keeper. Observing how uncertain greate officers are c continuing long in their places, he would not accept unless £2,000 a yeare were given him in reversion whe he was put out, in consideration of his loss of practic His predecessors, how little time soever they had tl seal, usually got £100,000, and made themselves barons It is doubtful whether this bargain was actually mad

but long after Cowper's time, lawyers about to mount the woolsack insisted on having terms that should compensate them for loss of practice. Lord Macclesfield had a special salary of £4,000 per annum during his occupancy of the marble chair, and obtained a grant of £12,000 from the King;—a tellership in the Exchequer being also bestowed upon his eldest son. Lord King obtained even better terms—a salary of £6,000 per annum from the Post Office, and £1,200 from the Hanaper Office; this large income being granted to him in consideration of the injury done to the Chancellor's emoluments by the proceedings against Lord Macclesfield—whereby it was declared illegal for Chancellors to sell the subordinate offices in the Court of Chancery. This arrangement—giving the Chancellor an increased salary in *lieu* of the sums which he could no longer raise by sales of offices—is conclusive testimony that in the opinion of the crown Lord Macclesfield had a right to sell the masterships. The terms made by Lord Northington in 1766, on resigning the Seals and becoming President of the Council, illustrate this custom. On quitting the marble chair he obtained an immediate pension of £2,000 per annum; and an agreement that the annual payment should be made £4,000 per annum, as soon as he retired from the Presidency: he also obtained a reversionary grant for two lives of the lucrative office of Clerk of the Hanaper in Chancery.

In Lord Chancellor King's time, among the fees and perquisites which he wished to regulate and reform were the supplies of stationery provided by the country for the great law-officers. It may be supposed that the sum thus expended on paper, pens, and wax was an insignificant item in the national expenditure; but such was not the case—for the chiefs of the courts were accustomed to place their personal friends on the free-list for articles

of stationery. The Archbishop of Dublin, a dignitar well able to pay for his own writing materials, wrote t Lord King, April 10, 1733: "My Lord,—Ever since had the honor of being acquainted with Lord Chance lors, I have lived in England and Ireland upon Chancei paper, pens, and wax. I am not willing to lose an ol advantageous custom. If your lordship hath any t spare me by my servant, you will oblige your very hun ble servant, "JOHN DUBLIN."

So long as judges or subordinate officers were paid b casual perquisites and fees, paid directly to them b suitors, a taint of corruption lingered in the practice c our courts. Long after judges ceased to sell injustic they delayed justice from interested motives, and whe questions concerning their perquisites were raised the would sometimes strain a point, for the sake of their ow private advantage. Even Lord Ellenborough, whos fame is bright among the reputations of honorable mer could not always exercise self-control when attempt were made to lessen his customary profits. "I never, writes Lord Campbell, "saw this feeling at all manifes itself in Lord Ellenborough except once, when a questio arose whether money paid into court was liable to pounc age. I was counsel in the case, and threw him into furious passion by strenuously resisting the demand; th poundage was to go into his own pocket—being payab to the chief clerk—an office held in trust for him. If h was in any degree influenced by this consideration, make no doubt that he was wholly unconscious of it."

George III.'s reign witnessed the introduction c changes long required and frequently demanded in th mode and amounts of judicial payments. In 1779 puisr judges and barons received an additional £400 per an num, and the Chief Baron an increase of £500 a yea Twenty years later, Stat. 39 Geo. III., c. 110, gave th

Master of the Rolls £4,000 a year, the Lord Chief Baron £4,000 a year, and each of the puisne judges and barons £3,000 per annum. By the same act also life-pensions of £4,000 per annum were secured to retiring holders of the seal, and it was provided that after fifteen years of service, or in case of incurable infirmity, the Chief Justice of the King's Bench could claim on retirement £3,000 per annum, the Master of the Rolls, Chief of Common Pleas, and Chief Baron £2,500 per annum, and each minor judge of those courts or Baron of the coif, £2,000 a year. In 1809 (49 Geo. III., c. 127) the Lord Chief Baron's annual salary was raised to £5,000; while a yearly stipend of £4,000 was assigned to each puisne judge or baron. By 53 Geo. III, c. 153, the Chiefs and Master of the Rolls received on retirement an additional yearly £800, and the puisnes an additional yearly £600. A still more important reform of George III.'s reign was the creation of the first Vice-Chancellor, in March, 1813. Rank was assigned to the new functionary next after the Master of the Rolls, and his salary was fixed at £5,000 per annum.

Until the reign of George IV. judges continued to take fees and perquisites; but by 6 Geo. IV. c. 82, 83, 84, it was arranged that the fees should be paid into the Exchequer, and that the undernamed great officers of justice should receive the following salaries and pensions on retirement:—

| | An. Sal. | An. Pension on retirement. |
|---|---|---|
| Lord Chief Justice of King's Bench | £10,000 | £4,000 |
| Lord Chief Justice of Common Pleas | 8,000 | 3,750 |
| The Master of the Rolls . . . . | 7,000 | 3,750 |
| The Vice-Chancellor of England . . | 6,000 | 3,750 |
| The Chief Baron of the Exchequer . | 7,000 | 3,750 |
| Each Puisne Baron or Judge . . . | 5,500 | 3,500 |

Moreover by this act the second judge of the King' Bench was entitled as in the preceding reign, to £4 for giving charge to the grand jury in each term, an pronouncing judgment on malefactors.

The changes with regard to judicial salaries unde William IV. were comparatively unimportant. By 2 an 3 Will. IV. c. 116, the salaries of puisne judges an barons were reduced to £5,000 a year; and by 2 and Will. IV. c. 111, the Chancellor's pension, on retirement was raised to £5,000, the additional £1,000 per annur being assigned to him in compensation of loss of patron age occasioned by the abolition of certain offices. Thes were the most noticeable of William's provisions wit regard to the payment of his judges.

The present reign, which has generously given th country two new judges called Lords Justices, two addi tional Vice-Chancellors, and a swarm of paid justices, i the shape of county-court judges and stipendiary magis trates, has exercised economy with regard to judicia salaries. The annual stipends of the two Chief Justices fixed in 1825 at £10,000 for the chief of the King' Bench, and £8,000 for the chief of the Common Pleas have been reduced, in the former case to £8,000 per an num, in the latter to £7,000 per annum. The Chancel lor's salary for his services as Speaker of the House c Lords, has been made part of the £10,000 assigned t his legal office; so that his income is no more than te thousand a year. The salary of the Master of the Roll has been reduced from £7,000 to £6,000 a year; th same stipend, together with a pension on retirement o £3,750 being assigned to each of the Lords Justices The salary of a Vice-Chancellor is £5,000 per annum and after fifteen years' service, or in case of incurabl sickness rendering him unable to discharge the function of his office, he can retire with a pension of £3,500.

Thurlow had no pension on retirement; but with much justice Lord Campbell observes: "Although there was no parliamentary retired allowance for ex-Chancellor's, they were better off than at present. Thurlow was a Teller of the Exchequer, and had given sinecures to all his relations, for one of which his nephew now receives a commutation of £9,000 a year." Lord Loughborough was the first ex-Chancellor who enjoyed, on retirement, a pension of £4,000 per annum, under Stat. 39 Geo. III. c. 110. The next claimant for an ex-Chancellor's pension was Eldon, on his ejection from office in 1806; and the third claimant was Erskine, whom the possession of the pension did not preserve from the humiliations of indigence.

Eldon's obstinate tenacity of office was attended with one good result. It saved the nation much money by keeping down the number of ex-Chancellors entitled to £4,000 per annum. The frequency with which governments have been changed during the last forty years has had a contrary effect, producing such a strong bevy of lawyers—who are pensioners as well as peers—that financial reformers are loudly asking if some scheme can not be devised for lessening the number of these costly and comparatively useless personages. At the time when this page is written there are four ex-Chancellors in receipt of pensions—Lords Brougham, St. Leonards, Cranworth, and Westbury; but death has recently diminished the roll of Chancellors by removing Lords Truro and Lyndhurst. Not long since the present writer read a very able but one-sided article in a liberal newspaper that gave the sum total spent by the country since Lord Eldon's death in ex-Chancellors' pensions; and in simple truth it must be admitted that the bill was a fearful subject for contemplation.

# VII.

# WIGS AND GOWNS.

## CHAPTER XXXVI.

FROM the days of the Conqueror's Chancellor, Baldrick, who is reputed to have invented and christened the sword-belt that bears his name, lawyers have been conspicuous among the best-dressed men of their times. For many generations clerical discipline restrained the members of the bar from garments of lavish costliness and various colors, unless high rank and personal influence placed them above the fear of censure and punishment; but as soon as the law became a lay-profession, its members—especially those who were still young—eagerly seized the newest fashions of costume, and expended so much time and money on personal decoration that the governors of the Inns deemed it expedient to make rules with a view to check the inordinate love of gay apparel.

By these enactments foppish modes of dressing the hair were discountenanced or forbidden, not less than the use of gaudy clothes and bright arms. Some of these regulations have a quaint air to readers of this generation; and as indications of manners in past times they deserve attention.

From Dugdale's "Origines Juridiciales" it appears that in the earlier part of Henry VII.'s reign the students and barristers of the Inns were allowed great license in settling for themselves minor points of costume; but before

that paternal monarch died this freedom was lessened. Accepting the statements of a previous chronicler, Dugdale observes of the members of the Middle Temple under Henry—"They have no order for their apparell; but every man may go as him listeth, so that his apparell pretend no lightness or wantonness in the wearer; for, even as his apparell doth shew him to be, even so he shall be esteemed among them." But at the period when this license was permitted in respect of costume, the general discipline of the Inn was scandalously lax; the very next paragraph of the "Origines" showing that the templars forbore to shut their gates at night, whereby "their chambers were often-times robbed, and many other misdemeanors used."

But measures were taken to rectify the abuses and evil manners of the schools. In the thirty-eighth year of Henry VIII. an order was made "that the gentlemen of this company" (*i. e.*, the Inner Temple) "should reform themselves in their cut or disguised apparel, and not to have long beards. And that the Treasurer of this society should confer with the other Treasurers of Court for an uniform reformation." The authorities of Lincoln's Inn had already bestirred themselves to reduce the extravagances of dress and toilet which marked their younger and more frivolous fellow-members. "And for decency in Apparel," writes Dugdale, concerning Lincoln's Inn, "at a council held on the day of the Nativity of St. John the Baptist, 23 Hen. VIII. it was ordered that for a continual rule, to be thenceforth kept in this house, no gentleman, being a fellow of this house should wear any cut or pansid hose, or bryches; or pansid doublet, upon pain of putting out of the house."

Ten years later the authorities of Lincoln's Inn (33 Hen. VIII.) ordered that no member of the society "being in commons, or at his repast, should wear a beard,

and whoso did, to pay double commons or repasts in thi house during such time as he should have any beard."

By an order of 5 Maii, 1 and 2 Philip and Mary, th gentlemen of the Inner Temple were forbidden to wea long beards, no member of the society being permitte to wear a beard of more than three weeks' growth. Ever breach of this law was punished by the heavy fine o twenty shillings. In 4 and 5 of Philip and Mary it wa ordered that no member of the Middle Temple "shoul thenceforth wear any great bryches in their hoses, mad after the Dutch, Spanish, or Almon fashion; or lawnd upon their capps; or cut doublets, upon pain of iii$^{s}$ iiii$^{d}$ fo faiture for the first default, and the second time to b expelled the house." At Lincoln's Inn, "in 1 and Philip and Mary, one M$^{r}$ Wyde, of this house, was (b special order made upon Ascension day) fined at fiv groats, for going in his study gown in Cheap-side, on Sunday, about ten o'clock before noon; and in West minster Hall, in the Term time, in the forenoon." M Wyde's offense was one of remissness rather than of ex cessive care for his personal appearance. With regard t beards in the same reign, Lincoln's Inn exacted that suc members "as had beards should pay 12*d.* for every mea they continued them; and every man" was required "t be shaven upon pain of putting out of commons."

The orders made under Elizabeth with regard to th same or similar matters are even more humorous an diverse. At the Inner Temple "it was ordered in 3 Elizabeth (16 Junii), that if any fellow in commons, c lying in the house, did wear either hat or cloak in th Temple church, hall, buttry, kitchin, or at the buttry barr, dresser, or in the garden, he should forfeit for ever such offense vi$^{s}$ viii$^{d}$. And in 42 Eliz. (8 Febr.) that the go not in cloaks, hatts, bootes, and spurrs into th city, but when they ride out of the town." This ord

was most displeasing to the young men of the legal academies, who were given to swaggering among the brave gallants of city ordinaries, and delighted in showing their rich attire at Paul's. The Templar of the Inner Temple who ventured to wear arms (except his dagger) in hall committed a grave offense, and was fined five pounds. "No fellow of this house should come into the hall" it was enacted at the Inner Temple, 38 Eliz. (20 Dec.) "with any weapons, except his dagger, or his knife, upon pain of forfeiting the sum of five pounds." In old time the lawyers often quarreled and drew swords in hall; and the object of this regulation doubtless was to diminish the number of scandalous affrays. The Middle Temple, in 26 Eliz. made six prohibitory rules with regard to apparel, enacting, "1. That no ruff should be worn. 2. Nor any white color in doublets or hoses. 3. Nor any facing of velvet in gownes, but by such as were of the bench. 4. That no gentleman should walk in the streetes in their cloaks, but in gownes. 5. That no hat, or long, or curled hair be worn. 6. Nor any gown, but such as were of a sad colour." Of similar orders made at Gray's Inn, during Elizabeth's reign, the following edict of 42 Eliz. (Feb. 11) may be taken as a specimen:—"That no gentleman of this society do come into the hall, to any meal, with their hats, boots, or spurs; but with their caps, decently and orderly, according to the ancient order of this house: upon pain, for every offense to forfeit iii$^{s}$ 4$^{d}$, and for the third offense expulsion. Likewise, that no gentleman of this society do go into the city, or suburbs, to walk in the Fields, otherwise than in his gown, according to the ancient usage of the gentlemen of the Inns of Court, upon penalty of iii$^{s}$ iiii$^{d}$ for every offense; and for the third, expulsion and loss of his chamber."

At Lincoln's Inn it was enacted, "in 38 Eliz., that if

any Fellow of this House, being a commoner or repaster, should within the precinct of this house wear any cloak, boots, spurrs, or long hair, he should pay for every offense five shillings for a fine, and also to be put out of commons." The attempt to put down beards at Lincoln's Inn failed. Dugdale says, in his notes on that Inn, "And in 1 Eliz. it was further ordered, that no fellow of this house should wear any beard above a fortnight's growth; and that whoso transgresses therein should for the first offense forfeit 3*s.* 4*d.*, to be paid and cast with his commons; and for the second time 6*s.* 8*d.*, in like manner to be paid and cast with his commons: and the third time to be banished the house. But the fashion at that time of wearing beards grew then so predominant, as that the very next year following, at a council held at this house, upon the 27th of November, it was agreed and ordered, that all orders before that time touching beards, should be void and repealed." In the same year in which the authorities of Lincoln's Inn, forbade the wearing of beards, they ordered that no fellow of their society" should wear any sword or buckler; or cause any to be born after him into the town." This was the first of the seven orders made in 1 Eliz. for *all* the Inns of Courts; of which orders the sixth runs thus: —"That none should wear any velvet upper cap, neither in the house nor city. And that none after the first day of January then ensuing, should wear any furs, nor any manner of silk in their apparel, otherwise than he could justifie by the statute of apparel, made *an.* 24 H. 8 under the penalty aforesaid." In the eighth year of the following reign it was ordained at Lincoln's Inn "that no rapier should be worn in this house by any of the society."

Other orders made in the reign of James I., and similar enactments passed by the Inns in still more recent

periods, can be readily found on reference to Dugdale and later writers upon the usages of lawyers.

On such matters, however, fashion is all-powerful; and however grandly the benchers of an Inn might talk in their council-chamber, they could not prevail on their youngsters to eschew beards when beards were the mode, or to crop the hair of their heads when long tresses were worn by gallants at court. Even in the time of Elizabeth —when authority was most anxious that utter-barristers should in matters of costume maintain that reputation for "sadness" which is the proverbial characteristic of apprentices of the law—counselors of various degrees were conspicuous throughout the town for brave attire. If we had no other evidence bearing on the point, knowledge of human nature would make us certain that the bar imitated Lord Chancellor Hatton's costume. At Gray's Inn, Francis Bacon was not singular in loving rich clothes, and running into debt for satin and velvet, jewels and brocade, lace and feathers. Even of that contemner of frivolous men and vain pursuits, Edward Coke, biography assures us, "The jewel of his mind was put into a fair case, a beautiful body with comely countenance; a case which he did wipe and keep clean, delighting in good clothes, well worn; being wont to say that the outward neatness of our bodies might be a monitor of purity to our souls."

The courts of James I. and his son drew some of their most splendid fops from the multitude of young men who were enjoined by the elders of their profession to adhere to a costume that was a compromise between the garb of an Oxford scholar and the guise of a London 'prentice. The same was the case with Charles II.'s London. Students and barristers outshone the brightest idlers at Whitehall, while within the wall of their Inns benchers still made a faint show of enforcing old restrictions upon

costume. At a time when every Templar in society wor hair—either natural or artificial—long and elaborately dressed, Sir William Dugdale wrote, "To the office of th chief butler" (*i. e.*, of the Middle Temple) "it likewis appertaineth to take the names of those that be absen at the said solemn revells, and to present them to th bench, as also inform the bench of such as wear hats bootes, *long hair*, or the like (for the which he is com monly out of the young gentlemen's favor)."

## CHAPTER XXXVII.

SAITH Sir William Dugdale, in his chapter concern ing the personal attire of judges—"That peculia and decent vestments have, from great antiquity bee used in religious services, we have the authority of God' sacred precept to Moses, '*Thou shalt make holy rayment for Aaron and his sons, that are to minister unto me, tha they may be for glory and beauty.*'" In this light an flippant age there are men irreverent enough to smile a the habiliments which our judges wear in court, for th glory of God and the seemly embellishment of their ow natural beauty.

Like the stuff-gown of the utter-barrister, the robes c English judges are of considerable antiquity; but an tiquaries labor in vain to discover all the facts relating t their origin and history. Mr. Foss says that at the Stua Restoration English judges resumed the robes worn b their predecessors since the time of Edward I.; bu though the judicial robes of the present day bear a clos resemblance to the vestments worn by that king's judge the costume of the bench has undergone many variation since the twentieth year of his reign.

In the eleventh year of Richard II. a distinction was made between the costumes of the chiefs of the King's Bench and Common Pleas and their assistant justices; and at the same time the Chief Baron's inferiority to the Chief Justices was marked by costume.

Henry VI.'s Chief Justice of the King's Bench, Sir John Fortesque, in his delightful treatise "De Laudibus Legum Angliæ," describes the ceremony attending the creation of a justice, and minutely sets forth the chief items of judicial costume in the Bench and Common Pleas during his time. "Howbeit," runs Robert Mulcaster's rendering of the "De Laudibus," "the habite of his rayment, hee shall from time to time forwarde, in some pointes change, but not in all the ensignments thereof. For beeing a serjeaunt at lawe, hee was cloathed in a long robe priestlyke, with a furred cape about his shoulders, and thereupon a hoode with two labels such as Doctours of the Lawes use to weare in certayne universityes, with the above described quoyfe. But being once made a justice, in steede of his hoode, hee shall weare a cloake cloased upon his righte shoulder, all the other ornaments of a serjeant still remayning; sauing that a justyce shall weare no partye coloured vesture as a serjeant may. And his cape is furred with none other than menever, whereas the serjeant's cape is ever furred with whyte lambe."

Judicial costume varied with the fashion of the day, or the whim of the sovereign, in the fourteenth and fifteenth centuries. Subsequent generations saw the introduction of other changes; and in the time of Charles I. questions relating to the attire of the common-law judges were involved in so much doubt, and surrounded with so many contradictory precedents and traditions, that the judges resolved to simplify matters by conference and unanimous action. The result of their deliber-

ation was a decree, dated June 6, 1635, to which Sir John Bramston, Chief of the King's Bench, Sir John Finch, Chief of the Common Pleas, Sir Humphrey Davenport, Chief of the Exchequer, and all the minor judges of the three courts, gave subscription.

## CHAPTER XXXVIII.

THE changes effected in judicial costume during the Commonwealth, like the reformation introduced at the same period into the language of the law, were all reversed in 1660, when Charles II.' s judges resumed the attire and usages of their predecessors in the first Charles's reign. When he had satisfied himself that monarchical principles were sure of an enduring triumph, and that their victory would conduce to his own advantage, great was young Samuel Pepy's delight at seeing the ancient customs of the lawyers restored, one after another. In October, 1660, he had the pleasure of seeing "the Lord Chancellor and all the judges riding on horseback, and going to Westminster Hall, it being the first day of term." In the February of 1663–4 his eyes were gladdened by the revival of another old practice. "28th (Lord's Day). Up, and walked to St. Paul's," he writes, "and, by chance, it was an extraordinary day for the Readers o Inns of the Court and all the Students to come to church it being an old ceremony not used these twenty-five years, upon the first Sunday in Lent. Abundance there was of students, more than there was room to seat bu upon forms, and the church mighty full. One Hawkins preached, an Oxford man, a good sermon upon these words, 'But the wisdom from above is first pure, then peaceable.'" Hawkins was no doubt a humorist, and smiled in the sleeve of his Oxford gown as he told th

law-students that *peace* characterized the highest sort of *wisdom.*

But, notwithstanding their zeal in reviving old customs, the lawyers of the Restoration introduced certain novelties into legal life. From Paris they imported the wig which still remains one of the distinctive adornments of the English barrister; and from the same center of civilization they introduced certain refinements of cookery, which had been hitherto unknown in the taverns of Fleet-street and the Strand. In the earlier part of the "merry monarch's" reign, the eating-house most popular with young barristers and law-students was kept by a French cook named Chattelin, who, besides entertaining his customers with delicate fare and choice wine, enriched our language with the word "cutlet"—in his day, spelt costelet.

In the seventeenth century, until wigs were generally adopted, the common-law judges, like their precursors for several past generations, wore in court velvet caps, coifs, and cornered caps. Pictures preserve to us the appearance of justices, with their heads covered by one or two of these articles of dress, the mustache in many instances adorning the lip, and a well-trimmed beard giving point to the judicial chin. The more common head-dress was the coif and coif-cap, of which it is necessary to say a few words.

The coif was a covering for the head, made of white lawn or silk, and common-law judges wore it as a sign that they were members of the learned brotherhood of sergeants. Speaking of the sergeants Fortescue in his "De Laudibus," says—"Wherefore to this state and degree hath no man beene hitherto admitted, except he hath first continued by the space of sixteene years in the said generall studie of the law, and in token or signe, that all justices are thus graduat, every of them alwaies,

while he sitteth in the Kinges Courts, weareth a white quoyfe of silke; which is the principal and chiefe insignment of habite, wherewith serjeants-at-lawe in their creation are decked. And neither the justice, nor yet the serjeaunt, shall ever put of the quoife, no not in the kinges presence, though he bee in talke with his majesties highnesse." At times it was no easy matter to take the coif from the head; for the white drapery was fixed to its place with strings, which in the case of one notorious rascal were not untied without difficulty. In Henry III.'s reign, when William de Bussy was charged in open court with corruption and dishonesty, he claimed the benefit of clerical orders, and endeavored to remove his coif in order that he might display his tonsure; but before he could effect his purpose, an officer of the court seized him by the throat and dragged him off to prison. "Voluit," says Matthew Paris, "ligamenta coifæ suæ solvere, ut palam monstraret se tonsuram habere clericalem; sed non est permissus. Satelles vero eum arripiens, non per coifæ ligamina sed per guttur eum apprehendens, traxit ad carcerem." From which occurrence Spelman drew the untenable, and indeed, ridiculous inference, that the coif was introduced as a veil, beneath which ecclesiastics who wished to practice as judges or counsel in the secular courts, might conceal the personal mark of their order.

The coif cap is still worn in undiminished proportions by judges when they pass sentence of death, and is generally known as the "black cap." In old time the justice, on making ready to pronounce the awful words which consigned a fellow-creature to a horrible death, was wont to draw up the flat, square, dark cap, that sometimes hung at the nape of his neck, or the upper part of his shoulder. Having covered the whiteness of his coif, and partly concealed his forehead and brows

with the sable cloth, he proceeded to utter the dread sentence with solemn composure and firmness. At present the black cap is assumed to strike terror into the hearts of the vulgar; formerly it was pulled over the eyes, to hide the emotion of the judge.

Shorn of their original size, the coif and the coif cap may still be seen in the wigs worn by sergeants at the present day. The black blot which marks the crown of a sergeant's wig is generally spoken of as his coif, but this designation is erroneous. The black blot is the coif-cap; and those who wish to see the veritable coif must take a near view of the wig, when they will see that between the black silk and the horse-hair there lies a circular piece of white lawn, which is the vestige of that pure raiment so reverentially mentioned by Fortescue. On the general adoption of wigs, the sergeants, like the rest of the bar, followed in the wake of fashion; but at first they wore their old coifs and caps over their false hair. Finding this plan cumbersome, they gradually diminished the size of the ancient covering, until the coif and cap became the absurd thing which resembles a bald place covered with court-plaster quite as much as the rest of the wig resembles human hair.

While the common-law judges of the seventeenth century, before the introduction of wigs, wore the undiminished coif and coif-cap, the Lord Chancellor, like the Speaker of the House of Commons, wore a hat. Lord Keeper Williams, the last clerical holder of the seals, used to wear in the Court of Chancery a round conical hat. Bradshaw, sitting as president of the commissioners who tried Charles I., wore a hat instead of the coif and cap which he donned at other times as a sergeant of law. Kennett tells us that "Mr. Sergeant Bradshaw, the President, was afraid of some tumult upon such new and unprecedented insolence as that of sitting

judge upon his king; and therefore, besides other defense, he had a thick, big-crowned beaver hat, lined with plated steel, to ward off blows." It is scarcely credible that Bradshaw resorted to such means for securing his own safety, for in case of tumult a hat, however strong, would have been an insignificant protection against popular fury. If conspirators had resolved to take his life, they would have tried to effect their purpose by shooting or stabbing him, not by knocking him on the head. A steel-plated hat would have been but a poor guard against the bludgeon, and a still poorer defense against poniard or pistol. It is far more probable that in laying aside the ordinary head dress of an English common-law judge, and in assuming a high-crowned hat, the usual covering of a Speaker, Bradshaw endeavored to mark the exceptional character of the proceeding, and to remind the public that he acted under parliamentary sanction. Whatever the wearer's object, England was satisfied that he had a notable purpose, and persisted in regarding the act as significant of cowardice or of insolence, of anxiety to keep within the lines of parliamentary privilege, or of readiness to set all law at defiance. At the time and long after Bradshaw's death, that hat caused an abundance of discussion; it was a problem which men tried in vain to solve, an enigma that puzzled clever heads, a riddle that was interpreted as an insult, a caution, a protest, a menace, a doubt. Oxford honored it with a Latin inscription, and a place among the curiosities of the university, and its memory is preserved to Englishmen of the present day in the familiar lines—

> "Where England's monarch once uncovered sat,
> And Bradshaw bullied in a broad-brimmed hat."

Judges were by no means unanimous with regard to the adoption of wigs, some of them obstinately refusing

to disfigure themselves with false tresses, and others displaying a foppish delight in the new decoration. Sir Matthew Hale, who died in 1676, to the last steadily refused to decorate himself with artificial locks. The likeness of the Chief Justice that forms the frontispiece to Burnet's memoir of the lawyer represents him in his judicial robes, wearing his SS collar, and having on his head a cap—not the coif cap, but one of the close-fitting skull-caps worn by judges in the seventeenth century. Such skull-caps, it has been observed in a prior page of this work, were worn by barristers under their wigs, and country gentlemen at home, during the last century. Into such caps readers have seen Sir Francis North put his fees. The portrait of Sir Creswell Levinz (who returned to the bar on dismissal from the bench in 1686) shows that he wore a full-bottomed wig while he was a judge; whereas Sir Thomas Street, who remained a judge till the close of James II.'s reign, wore his own hair and a coif cap.

When Shaftesbury sat in court as Lord High Chancellor of England he wore a hat, which Roger North is charitable enough to think might have been a black hat. "His lordship," says the "Examen," "regarded censure so little, that he did not concern himself to use a decent habit as became a judge of his station; for he sate upon the bench in an ash-colored gown silver laced, and full-ribboned pantaloons displayed, without any black at all in his garb, unless it were his hat, which, now, I can not positively say, though I saw him, was so."

Even so late as Queen Anne's reign, which witnessed the introduction of three-cornered hats, a Lord Keeper wore his own hair in court instead of a wig, until he received the sovereign's order to adopt the venerable disguise of a full-bottomed wig. Lady Sarah Cowper recorded of her father, 1705:—"the queen after this was

persuaded to trust a Whigg ministry, and in the year 1705, Octr., she made my father Ld. Keeper of the Great Seal, in the 41st year of his age,—'tis said the youngest Lord Keeper that ever had been. He looked very young, and wearing his own hair made him appear yet more so, which the queen observing, obliged him to cut it off, telling him the world would say she had given the seals to a boy."

The young Lord Keeper of course obeyed; and when he appeared for the first time at court in a wig, his aspect was so grave and reverend that the queen had to look at him twice before she recognized him. More than half a century later, George II. experienced a similar difficulty, when Lord Hardwicke, after the close of his long period of official service, showed himself at court in a plain suit of black velvet, with a bag and sword. Familiar with the appearance of the Chancellor dressed in full-bottomed wig and robes, the king failed to detect his old friend and servant in the elderly gentleman who, in the garb of a private person of quality, advanced and rendered due obeisance. "Sir, it is Lord Hardwicke," whispered a lord in waiting who stood near his Majesty's person, and saw the cause of the cold reception given to the ex-Chancellor. But unfortunately the king was not more familiar with the ex-Chancellor's title than his appearance, and in a disastrous endeavor to be affable inquired, with an affectation of interest, "How long has your lordship been in town?" The peer's surprise and chagrin were great until the monarch, having received further instructions from the courtly prompter at his elbow, frankly apologized in bad English and with noisy laughter. "Had Lord Hardwicke," says Campbell, "worn such a uniform as that invented by George IV. for ex-Chancellors (very much like a Field Marshal's), he could not have been mistaken for a common man."

The judges who at the first introduction of wigs refused to adopt them were prone to express their dissatisfaction with those coxcombical contrivances when exhibited upon the heads of counsel; and for some years prudent juniors, anxious to win the favorable opinion of anti-wig justices, declined to obey the growing fashion. Chief Justice Hale, a notable sloven, conspicuous among common law judges for the meanness of his attire, just as Shaftesbury was conspicuous in the Court of Chancery for foppishness, cherished lively animosity for two sorts of legal practitioners—attorneys who wore swords, and young Templars who adorned themselves with periwigs. Bishop Burnet says of Hale: "He was a great encourager of all young persons that he saw followed their books diligently, to whom he used to give directions concerning the method of their study, with a humanity and sweetness that wrought much on all that came near him; and in a smiling, pleasant way he would admonish them, if he saw anything amiss in them; particularly if they went too fine in their clothes, he would tell them it did not become their profession. He was not pleased to see students wear long periwigs, or attorneys go with swords, so that such men as would not be persuaded to part with those vanities, when they went to him laid them aside, and went as plain as they could, to avoid the reproof which they knew they might otherwise expect." In England, however, barristers almost universally wore wigs at the close of the seventeenth century: but north of the Tweed advocates wore cocked hats and powered hair so late as the middle of the eighteenth century. When Alexander Wedderburn joined the Scotch bar in 1754, wigs had not come into vogue with the members of his profession.

Many are the good stories told of judicial wigs, and among the best of them is the anecdote which that

malicious talker, Samuel Rogers, delighted to tell at Edward Law's expense. "Lord Ellenborough," says the "Table-Talk," "was once about to go on circuit, when Lady Ellenborough said that she should like to accompany him. He replied that he had no objection provided she did not encumber the carriage with bandboxes, which were his utter abhorrence. During the first day's journey Lord Ellenborough, happening to stretch his legs, struck his foot against something below the seat; he discovered that it was a bandbox. Up went the window, and out went the bandbox. The coachman stopped, and the footman, thinking that the bandbox had tumbled out of the window by some extraordinary chance, was going to pick it up, when Lord Ellenborough furiously called out, 'Drive on!' The bandbox, accordingly was left by the ditchside. Having reached the county town where he was to officiate as judge, Lord Ellenborough proceeded to array himself for his appearance in the court-house. 'Now,' said he, 'where's my wig?—where *is* my wig?' 'My Lord,' replied his attendant, 'it was thrown out of the carriage window!'"

Changing together with fashion, barristers ceased to wear their wigs in society as soon as the gallants and bucks of the West End began to appear with their natural tresses in theaters and ball-rooms; but the conservative genius of the law has hitherto triumphed over the attempts of eminent advocates to throw the wig out of Westminster Hall. When Lord Campbell argued the great Privilege case, he obtained permission to appear without a wig; but this concession to a counsel—who, on that occasion, spoke for sixteen hours—was accompanied with an intimation that "it was not to be drawn into precedent."

Less wise or less fortunate than the bar, the judges of England wore their wigs in society after advocates of all

ranks and degrees had agreed to lay aside the professional head-gear during hours of relaxation. Lady Eldon's good taste and care for her husband's comfort induced Lord Eldon, soon after his elevation to the pillow of the Common Pleas, to beg the king's permission that he might put off his judicial wig on leaving the courts in which as Chief Justice he would be required to preside. The petition did not meet with a favorable reception. For a minute George III. hesitated; whereupon Eldon supported his prayer by observing, with the fevor of an old-fashioned Tory, that the lawyer's wig was a detestable innovation—unknown in the days of James I. and Charles the Martyr, the judges of which two monarchs would have rejected as an insult any proposal that they should assume a head-dress fit only for madmen at masquerades or mummers at country wakes. "What! what!" cried the king, sharply; and then smiling mischievously, as he suddenly saw a good answer to the plausible argument, he added—"True, my lord, Charles the First's judges wore no wigs but they wore beards. You may do the same, if you like. You may please yourself about wearing or not wearing your wig; but mind, if you please yourself by imitating the old judges, as to the head—you must please me by imitating them as to the chin. You may lay aside your wig; but if you do—you must wear a beard." Had he lived in these days, when barristers occasionally wear beards in court, and judges are not less conspicuous than the junior bar for magnitude of nose and whisker, Eldon would have accepted the condition. But the last year of the last century was the very center and core of that time which may be called the period of close shavers; and John Scott, the decorous and respectable, would have endured martyrdom rather than have grown a beard, or have allowed his whiskers to exceed the limits of mutton-chop whiskers.

As Chief Justice of the Common Pleas, and subsequently as Chancellor, Eldon wore his wig whenever he appeared in general society; but in the privacy of his own house he gratified Lady Eldon by laying aside the official head-gear. That this was his usage the gossips of the law-courts knew well; and at Carlton House, when the Prince of Wales was most indignant with the Chancellor who subsequently became his familiar friend, courtiers were wont to soothe the royal rage with diverting anecdotes of the attention which the odious lawyer lavished on the natural hair which gave his Bessie so much delight. On one occasion, when Eldon was firmly supporting the cause of the Princess of Wales, "the first gentleman of Europe" forgot common decency so far that he made a jeering allusion to this instance of the Chancellor's domestic amiability. "I am not the sort of person," growled the prince, with an outbreak of peevishness, "to let my hair grow under my wig to please my wife." With becoming dignity Eldon answered—"Your Royal Highness condescends to be personal. I beg leave to withdraw;" and suiting his action to his words, the Chancellor made a low bow to the angry prince, and retired. The prince sneaked out of the position by an untruth instead of an apology. On the following day he caused a written assurance to be conveyed to the Chancellor that the offensive speech "was nothing personal, but simply a proverb—a proverbial way of saying a man was governed by his wife." It is needless to say that the expression was not proverbial, but distinctly and grossly personal. Lord Malmesbury's comment on this affair is "Very absurd of Lord Eldon: but explained by his having literally done what the prince said." Lord Eldon's conduct absurd! What was the prince's?

## CHAPTER XXXIX.

BANDS came into fashion with Englishmen many years before wigs, but like wigs they were worn in general society before they became a recognized and distinctive feature of professional costume. Ladies of rank dyed their hair and wore false tresses in Elizabethan England; but their example was not extensively followed by the men of their time—although the courtiers of the period sometimes donned "periwinkles," to the extreme disgust of the multitude, and the less stormy disapprobation of the polite. The frequency with which bands are mentioned in Elizabethan literature affords conclusive evidence that they were much worn towards the close of the sixteenth century; and it is also matter of certainty that they were known in England at a still earlier period. Henry VIII. had "4 shirte-bands of silver with ruffes to the same, whereof one was perled with golde:" and in 1658 Peacham observed, "King Henry VIII. was the first that ever wore a band about his neck, and that very plain, without lace, and about an inch or two in depth. We may see how the case is altered, he is not a gentleman, or in the fashion, whose band of Italian cutwork standeth him not at the least in three or four pounds; yea, a sempster in Holborn told me there are of threescore pound price a-piece." That the fops of Charles I.'s reign were spending money on a fashion originally set by King Henry the Bluff was the opinion also of Taylor the Water Poet, who in 1630 wrote—

> "Now up alofte I mount unto the ruffe,
> Which into foolish mortals pride doth puffe;
> Yet ruffes' antiquity is here but small—
> Within this eighty years not one at all;
> For the Eighth Henry (so I understand)

Was the first king that ever wore a *band*,
And but a *falling-band*, plaine with a hem;
All other people knew no use of them.
Yet imitation in small time began
To grow, that it the kingdom overran;
The little falling-bands encreased to ruffes,
Ruffes (growing great) were waited on by cuffes,
And though our frailties should awake our care,
We make our ruffes as careless as we are."

In regarding the falling-band as the germ of the ruff, the Water Poet differs from those writers who, with greater appearance of reason, maintain that the ruff was the parent of the band. Into this question concerning origin of species, there is no occasion to enter on the present occasion; it is enough to state that in the earlier part of the seventeenth century bands or collars—bands stiffened and standing at the backward part, and bands falling upon the shoulder and breast—were articles of costume upon which men of expensive and modish habits spent large sums.

In the days of James I., when standing bands were still the fashion, and falling bands had not come in, the Inns of Court men were very particular about the stiffness, cut, and texture of their collars. Speaking of the Inns of Court men, Sir Thomas Overbury (who was poisoned in 1613) says, "He laughs at every man whose band sits not well, or that hath not a fair shoe-tye, and is ashamed to be in any man's company who wears not his cloathes well."

If portraits may be trusted, the falling band of Charles I.'s time bore considerable resemblance to the falling neck-frill which twenty years since was very generally worn by quite little boys, and is still sometimes seen on urchins who are about six years of age. The bands worn by the barristers and clergy of our own times are modifications of this antique falling-band, and like the coif cap of the modern sergeant, they bear only a faint likeness to their originals. But though bands—longer than

those still worn by clergymen—have come to be a distinctive feature of legal costume, the bar was slow to adopt falling-collars—regarding them as a strange and fanciful innovation. Whitelock's personal narrative furnishes pleasant testimony that the younger gentry of Charles I.'s England adopted the new collar before the working lawyers.

"At the Quarter Sessions of Oxford," says Whitelock, speaking of the year 1635, when he was only thirty years of age, 'I was put into the chair in court, though I was in colored clothes, a sword by my side, and a falling-band, which was unusual for lawyers in those days, and in this garb I gave the charge to the Grand Jury. I took occasion to enlarge on the point of jurisdiction in the temporal courts in matters ecclesiastical, and the antiquity thereof, which I did the rather because the spiritual men began in those days to swell higher than ordinary, and to take it as an injury to the Church that anything savoring of the spirituality should be within the cognizance of ignorant laymen. The gentlemen and freeholders seemed well pleased with my charge, and the management of the business of the sessions; and said they perceived one might speak as good sense in a falling-band as in a ruff." At this time Whitelock had been about seven years at the bar; but at the Quarter Sessions the young Templar was playing the part of country squire, and as his words show, he was dressed in a fashion that directly violated professional usage.

Whitelock's speech seems to have been made shortly before the bar accepted the falling-band as an article of dress admissible in courts of law. Towards the close of Charles's reign, such bands were very generally worn in Westminster Hall by the gentlemen of the long robe; and after the Restoration, a barrister would as soon have thought of appearing at the King's Bench without his

gown as without his band. Unlike the bar-bands of the present time—which are lappets of fine lawn, of simple make—the bands worn by Charles II.'s lawyers were dainty and expensive articles, such as those which Peacham exclaimed against in the preceding reign. At that date the Templar in prosperous circumstances had his bands made entirely of point lace, or of fine lawn edged with point lace; and as he wore them in society as well as in court, he was constantly requiring a fresh supply of them. Few accidents were more likely to ruffle a Templar's equanimity than a mishap to his band occurring through his own inadvertence, or carelessness on the part of a servant. At table the pieces of delicate lace-work were exposed to many dangers. Continually were they stained with wine or soiled with gravy, and the young lawyer was deemed a marvel of amiability who could see his point lace thus defiled and abstain from swearing. "I remember," observes Roger North, when he is showing the perfect control in which his brother Francis kept his temper, "At his table a stupid servant spilt a glass of red wine upon his point band and clothes. He only wiped his face and clothes with the napkin, and 'Here,' said he, 'take this away;' and no more."

In "The London Spy," Ned Ward shows that during Queen Anne's reign legal practitioners of the lowest sort were particular to wear bands. Describing the pettifogger, Ward says, "He always talks with as great assurance as if he understood what he pretends to know; and always wears a band, in which lies his gravity and wisdom." At the same period a brisk trade was carried on in Westminster Hall by the seamstresses who manufactured bands and cuffs, lace ruffles, and lawn kerchiefs for the grave counselors and young gallants of the Inns of Court. "From thence," says the author of "The Lon-

don Spy," "we walked down by the sempstresses, who were very nicely digitising and pleating turnsovers and ruffles for the young students, and coaxing them with amorous looks, obliging cant, and inviting gestures, to give so extravagant a price for what they buy."

From collars of lace and lawn, let us turn to collars of precious metal.

Antiquarians have unanimously rejected the fanciful legend adopted by Dugdale concerning the SS collar, as well as many not less ingenious interpretations of the mystic letters; and at the present time it is almost unanimously settled that the SS collar is the old Lancastrian badge, corresponding to the Yorkist collar of Roses and Suns, and that the S is either the initial of the sentimental word "Souvenez," or, as Mr. Beltz maintains, the initial letter of the sentimental motto, "Souvenez-vous dè moi." In Mr. Foss's valuable work, "The Judges of England," at the commencement of the seventh volume, the curious reader may find an excellent summary of all that has been or can be said about the origin of this piece of feudal livery, which, having at one time been very generally assumed by all gentle and fairly prosperous partisans of the House of Lancaster, has for many generations been the distinctive badge of a few official persons. In the second year of Henry IV. an ordinance forbade knights and esquires to wear the collar, save in the king's presence; and in the reign of Henry VIII., the privilege of wearing the collar was taken away from simple esquires by the "Acte for Reformacyon of Excesse in Apparayle," 24 Henry VIII. c. 13, which ordained "That no man oneless he be a knight . . . weare any color of Gold, named a color of S." Gradually knights and non-official persons relinquished the decoration; and in our own day the right to bear it is restricted to the two Chief Justices, the Chief Baron,

the sergeant-trumpeter, and all the officers of the Heralds' College, pursuivants excepted; "unless," adds Mr. Foss, "the Lord Mayor of London is to be included, whose collar is somewhat similar, and is composed of twenty-eight SS, fourteen roses, thirteen knots, and measures sixty-four inches."

## CHAPTER XL.

ON the stages of the Caroline theaters the lawyer is found with a green bag in his hand; the same is the case in the literature of Queen Anne's reign; and until a comparatively recent date green bags were generally carried in Westminster Hall and in provincial courts by the great body of legal practitioners. From Wycherly's "Plain Dealer," it appears that in the time of Charles II. angry clients were accustomed to revile their lawyers as "green bag-carriers." When the litigious Widow Blackacre upbraids the barrister who declines to argue for her, she exclaims—"Impertinent again, and ignorant to me! Gadsboddikins! you puny upstart in the law, to use me so, you green-bag carrier, you murderer of unfortunate causes, the clerk's ink is scarce off of your fingers." In the same drama, making much play with the green bag, Wycherley indicates the Widow Blackacre's quarrelsome disposition by decorating her with an enormous green reticule, and makes her son, the law-student, stagger about the stage in a gown, and under a heavy burden of green bags.

So also in the time of Queen Anne, to say that a man intended to carry a green bag, was the same as saying that he meant to adopt the law as a profession. In Dr. Arbuthnot's "History of John Bull," the prevelance of

the phrase is shown by the passage, "I am told, Cousin Diego, you are one of those that have undertaken to manage me, and that you have said you will carry a green bag yourself, rather than we shall make an end of our lawsuit. I'll teach them and you too to manage." It must, however, be borne in mind that in Queen Anne's time green bags, like white bands, were as generally adopted by solicitors and attorneys, as by members of the bar. In his "character of a pettifogger" the author of "The London Spy" observes—"His learning is commonly as little as his honesty, and his conscience much larger than his green bag."

Some years have elapsed since green bags altogether disappeared from our courts of law; but the exact date of their disappearance has hitherto escaped the vigilance and research of Colonel Landman, "Causidicus," and other writers who in the pages of that useful and very entertaining publication, *Notes and Queries*, have asked for information on that point and kindred questions. Evidence sets aside the suggestion that the color of the lawyer's bag was changed from green to red because the proceedings at Queen Caroline's trial rendered green bags odious to the public, and even dangerous to their bearers; for it is a matter of certainty that the leaders of the Chancery and Common-Law bars carried red bags at a time considerably anterior to the inquiry into the queen's conduct.

In a letter addressed to the editor of *Notes and Queries*, a writer who signs himself "Causidicus," observes—"When I entered the profession (about fifty years ago) no junior barrister presumed to carry a bag in the Court of Chancery, unless one had been presented to him by a King's Counsel: who, when a junior was advancing in practice, took an opportunity of complimenting him on his increase of business, and giving him his own bag to

carry home his papers. It was then a distinction to carry a bag, and a proof that a junior was rising in his profession. I do not know whether the custom prevailed in other courts." From this it appears that fifty years since the bag was an honorable distinction at the Chancery bar, giving its bearer some such professional status as that which is conferred by "silk" in these days when Queen's Counsel are numerous.

The same professional usage seems to have prevailed at the Common-Law bar more than eighty years ago; for in 1780, when Edward Law joined the Northern Circuit, and forthwith received a large number of briefs, he was complimented by Wallace on his success, and presented with a bag. Lord Campbell asserts that no case had ever before occurred where a junior won the distinction of a bag during the course of his first circuit. There is no record of the date when members of the junior bar received permission to carry bags according to their own pleasure; it is even matter of doubt whether the permission was ever expressly accorded by the leaders of the profession—or whether the old restrictive usage died a gradual and unnoticed death. The present writer, however, is assured that at the Chancery Bar, long after *all* juniors were allowed to carry bags, etiquette forbade them to adopt bags of the same color as those carried by their leaders. An eminent Queen's Counsel, who is a member of that bar, remembers that when he first donned a stuff gown, he, like all Chancery juniors, had a purple bag—whereas the wearers of silk at the same period, without exception, carried red bags.

Before a complete and satisfactoy account can be given of the use of bags by lawyers as badges of honor and marks of distinction, answers must be found foi several questions which at present remain open to discussion. So late as Queen Anne's reign, lawyers of the

lowest standing, whether advocates or attorneys, were permitted to carry bags;—a right which the junior bar appears to have lost when Edward Law joined the Northern Circuit. At what date between Queen Anne's day and 1780 (the year in which Lord Ellenborough made his *début* in the North), was this change effected? Was the change gradual or sudden? To what cause was it due? Again, is it possible that Lord Campbell and Causidicus wrote under a misapprehension, when they gave testimony concerning the usages of the bar with regard to bags, at the close of the last and the beginning of the present century? The memory of the distinguished Queen's Counsel, to whom allusion is made in the preceding paragraph, is quite clear that in his student days Chancery juniors were forbidden by etiquette to carry *red* bags, but were permitted to carry blue bags; and he is strongly of opinion that the restriction to which Lord Campbell and Causidicus draw attention, did not apply at any time to blue bags, but only concerned red bags, which, so late as thirty years since, unquestionably were the distinguishing marks of men in leading Chancery practice. Perhaps legal readers of this chapter will favor the writer with further information on this not highly important, but still not altogether uninteresting subject.

The liberality which for the last five-and-twenty years has marked the distribution of "silk" to rising members of the bar, and the ease with which all fairly successful advocates may obtain the rank of Queen's Counsel, enable lawyers of the present generation to smile at a rule which defined a man's professional position by the color of his bag, instead of the texture of his gown; but in times when "silk" was given to comparatively few members of the bar, and when that distinction was most unfairly withheld from the brightest ornaments of their

profession, if their political opinions displeased the "party in power," it was natural and reasonable in the bar to institute for themselves an "order of merit"—to which deserving candidates could obtain admission without reference to the prejudices of a Chancellor or the whims of a clique.

At present the sovereign's counsel learned in the law constitute a distinct order of the profession; but until the reign of William IV. they were merely a handful of court favorites. In most cases they were sound lawyers in full employment; but the immediate cause of their elevation was almost always some political consideration—and sometimes the lucky wearer of a silk gown had won the right to put K. C. or Q. C. after his name by base compliance with ministerial power. That our earlier King's Counsel were not created from the purest motives, or for the most honorable purposes, will be readily admitted by the reader who reflects that "silk gowns" are a legal species, for which the nation is indebted to the Stuarts. For all practical purposes Francis Bacon was a Q. C. during the reign of Queen Elizabeth. He enjoyed peculiar and distinctive *status* as a barrister, being consulted on legal matters by the Queen, although he held no place that in familiar parlance would entitle him to rank with her Crown Lawyers; and his biographers have agreed to call him Elizabeth's counselor learned in the law. But a Q. C. holding his office by patent—that is to say, a Q. C. as that term is understood at the present time—Francis Bacon never was. On the accession, however, of James I., he received his formal appointment of K. C., the new monarch having seen fit to recognize the lawyer's claim to be regarded as a "special counsel," or "learned counsel extraordinary." Another barrister of the same period who obtained the same distinction was Sir Henry Montague, who, in a patent granted in 1608

to the two Temples, is styled "one of our counsel learned in the law." Thus planted, the institution of monarch's special counsel was for many generations a tree of slow growth. Until George III.'s reign the number of monarch's counsel, living and practicing at the same time, was never large; and throughout the long period of that king's rule the fraternity of K. C.'s never assumed the magnitude and character of a professional order. It is uncertain what was the greatest number of contemporaneous K. C.'s during the Stuart dynasty; but there is no doubt that from the arrival of James I. to the flight of James II. there was no period when the K. C.'s at all approached the sergeants in names and influence. In Rymer's "Fœdera" mention is made of four barristers who were appointed counselors to Charles I., one of whom, Sir John Finch, in a patent of precedence is designated "King's Counsel;" but it is not improbable that the royal martyr had other special counselors whose names have not been recorded. At different times of Charles II.'s reign, there were created some seventeen K. C.'s and seven times that number of sergeants. James II. made ten K. C.'s; William and Mary appointed eleven special counselors; and the number of Q. C.'s appointed by Anne was ten. The names of George I.'s learned counsel are not recorded; the list of George II.'s K. C.'s, together with barristers holding patents of precedence, comprises thirty names; George III., throughout his long tenure of the crown, gave "silk" with or without the title of K. C., to ninety-three barristers; George IV. to twenty-six; whereas the list of William IV.'s appointments comprised sixty-five names, and the present queen has conferred the rank of Q. C. on about two hundred advocates—the law-list for 1865 mentioning one hundred and thirty-seven barristers who are Q. C.'s, or holders of patents of precedence; and only

twenty-eight sergeants-at-law, not sitting as judges in any of the supreme courts. The diminution in the numbers of the sergeants is due partly to the loss of their old monopoly of business in the Common Pleas, and partly—some say, chiefly—to the profuseness with which silk gowns, with Q. C. rank attached, have been thrown to the bar since the passing of the Reform Bill.

Under the old system when "silk" was less bountifully bestowed, eminent barristers not only led their circuits in stuff; but, after holding office as legal advisers to the crown and wearing silk gowns while they so acted with their political friends, they sometimes resumed their stuff gowns and places "outside the bar," on descending from official eminence. When Charles Yorke, in 1763, resigned the post of Attorney-General, he returned to his old place in court without the bar, clad in the black bombazine of an ordinary barrister, whereas during his tenure of office he had worn silk and sat within the bar. In the same manner when Dunning resigned the Solicitor-Generalship, in 1770, he reappeared in the Court of King's Bench, attired in stuff, and took his place without the bar; but as soon as he had made his first motion, he was addressed by Lord Mansfield, who with characteristic courtesy informed him that he should take precedence in that court before all members of the bar, whatever might be their standing, with the exception of King's Counsel, Sergeants, and the Recorder of London. On joining the Northern Circuit in 1780, Edward Law found Wallace and Lee leading in silk, and twenty years later he and Jemmy Park were the K. C.'s of the same district. Of course the circuit was not without wearers of the coif, one of its learned sergeants being Cockell who, before Law obtained the leading place, was known as "the Almighty of the North;" and whose success, achieved in spite of an almost total ignorance of legal science, was

long quoted to show that though knowledge is power, power may be won without knowledge.

From pure dislike of the thought that younger men should follow closely or at a distance in his steps to the highest eminence of legal success, Lord Eldon was disgracefully stingy in bestowing honors on rising barristers who belonged to his own party; but his injustice and downright oppression to brilliant advocates in the Whig ranks merit the warmest expressions of disapproval and contempt. The most notorious sufferers from his rancorous intolerance were Henry Brougham and Mr. Denman, who, having worn silk gowns as Queen Caroline's Attorney-General and Solicitor-General, were reduced to stuff attire on that wretched lady's death.

It is worthy of notice that in old times when silk gowns were few, their wearers were sometimes very young men. From the days of Francis North, who was made K. C. before he was a barrister of seven full years' standing, down to the days of Eldon who obtained silk after seven years' service in stuff, instances could be cited of the rapidity with which lucky youngsters rose to the honors of silk, while hard-worked veterans were to the last kept outside the bar. Thurlow was called to the bar in November, 1754, and donned silk in December, 1761. Six years had not elapsed since his call to the English bar, when Alexander Wedderburn was entitled to put the initials K. C. after his name, and wrote to his mother in Scotland, "I can't very well explain to you the nature of my preferment, but it is what most people at the bar are very desirous of, and yet most people run a hazard of losing money by it. I can scarcely expect any advantage from it for some time equal to what I give up; and, notwithstanding, I am extremely happy, and esteem myself very fortunate in having obtained it." Erskine's silk was won with even greater speed, for he was still in his

fifth year of forensic standing when he was invited within the bar; but his silk gown came to him with a patent of precedence, giving him the status without the title of a King's Counsel.

Bar mourning is no longer a feature of legal costume in England. On the death of Charles II. members of the bar donned gowns indicative of their grief for the national loss, and they continued, either universally or in a large number of cases, to wear those woeful habiliments till 1697, when Chief Justice Holt ordered all barristers practicing in his court to appear "in their proper gowns and not in mourning ones"—an order which, according to Narcissus Luttrell, compelled the bar to spend £15 per man. From this it may be inferred that (regard being had to change in value of money) a bar-gown at the close of the seventeenth century cost about ten times as much as it does at the present time.

## CHAPTER XLI.

NOT less famous in history than Bradshaw's broad-brimmed hat, nor less graceful than Shaftesbury's jaunty beaver, nor less memorable than the sailor's tarpaulin, under cover of which Jeffreys slunk into the Red Cow, Wapping, nor less striking than the black cap still worn by Justice in her sternest mood, nor less fanciful than the cocked hat which covered Wedderburn's powdered hair when he daily paced the High-street of Edinburgh with his hands in a muff—was the white hat which an illustrious Templar invented at an early date of the eighteenth century. Beau Brummel's original mind taught the human species to starch their white cravats; Richard Nash, having surmounted the invidious bar of

plebeian birth and raised himself upon opposing circumstances to the throne of Bath, produced a white hat. To which of these great men society owes the heavier debt of gratitude thoughtful historians can not agree; but even envious detraction admits that they deserve high rank among the benefactors of mankind. Brummel was a soldier; but Law proudly claims as her own the parent of the pale and spotless *chapeau*.

About lawyers' cocked hats a capital volume might be written, that should contain no better story than the one which is told of Ned Thurlow's discomfiture, in 1788, when he was playing a trickster's game with his friends and foes. Windsor Castle just then contained three distinct centers of public interest—the mad king in the hands of his keepers; on the one side of the impotent monarch the Prince of Wales waiting impatiently for the Regency; on the other side, the queen with equal impatience longing for her husband's recovery. The prince and his mother both had apartments in the castle, her majesty's quarters being the place of meeting for the Tory ministers, while the prince's apartments were thrown open to the select leaders of the Whig expectants. Of course the two coteries kept jealously apart; but Thurlow, who wished to be still Lord Chancellor, "whatever king might reign," was in private communication with the prince's friends. With furtive steps he passed from the queen's room (where he had a minute before been assuring the ministers that he would be faithful to the king's adherents), and made clandestine way to the apartment where Sheridan and Payne were meditating on the advantages of a regency without restriction. On leaving the prince, the wary lawyer used to steal into the king's chamber, and seek guidance or encouragement from the madman's restless eyes. Was the malady curable? If curable, how long a time would elapse before the return

of reason? These were the questions which the Chancellor put to himself as he debated whether he should break with the Tories and go over to the Whigs. Through the action of the patient's disease, the most delicate part of the lawyer's occupation was gone; and having no longer a king's conscience to keep, he did not care, by way of diversion—to keep his own.

For many days ere they received clear demonstration of the Chancellor's deceit, the other members of the cabinet suspected that he was acting disingenuously, and when his double-dealing was brought to their sure knowledge, their indignation was not even qualified with surprise. The story of his exposure is told in various ways; but all versions concur in attributing his detection to an accident. Like the gallant of the French court, whose clandestine intercourse with a great lady was discovered, because, in his hurried preparations for flight from her chamber, he appropriated one of her stockings, Thurlow, according to one account, was convicted of perfidy by the prince's hat, which he bore under his arm on entering the closet where the ministers awaited his coming. Another version says that Thurlow had taken his seat at the council-table, when his hat was brought to him by a page, with an explanation that he had left it in the prince's private room. A third, and more probable representation of the affair, instead of laying the scene in the council-chamber, makes the exposure occur in a more public part of the castle. "When a council was to be held at Windsor," said the Right Honorable Thomas Grenville, in his old age recounting the particulars of the mishap, "to determine the course which ministers should pursue, Thurlow had been there some time before any of his colleagues arrived. He was to be brought back to London by one of them, and the moment of departure being come, the Chancellor's hat was nowhere

to be found. After a fruitless search in the apartment where the council had been held, a page came with the hat in his hand, saying aloud, and with great *naiveté*, 'My lord, I found it in the closet of his Royal Highness the Prince of Wales.' The other ministers were still in the Hall, and Thurlow's confusion corroborated the inference which they drew." Can not an artist be found to place upon canvas this scene, which furnishes the student of human nature with an instructive instance of

"That combination strange—a lawyer and a blush?"

For some days Thurlow's embarrassment and chagrin were very painful. But a change in the state of the king's health caused a renewal of the lawyer's attachtachment to Tory principles and to his sovereign.

The lawyers of what may be termed the cocked hat period seldom maintained the happy mean between too little and too great care for personal appearance. For the most part they were either slovenly or foppish. From the days when as a student he used to slip into Nando's in a costume that raised the supercilious astonishment of his contemporaries, Thurlow to the last erred on the side of neglect. Camden roused the satire of an earlier generation by the miserable condition of the tie-wig which he wore on the bench of Chancery, and by an undignified and provoking habit of "gartering up his stockings while counsel were the most strenuous in their eloquence." On the other hand Joseph Yates—the puisne judge whom Mansfield's jeers and merciless oppressions drove from the King's Bench to the Common Pleas, where he died within four months of his retreat—was the finest of fine gentlemen. Before he had demonstrated his professional capacity, the habitual costliness and delicacy of his attire roused the distrust of attorneys, and on more than one occasion wrought him in-

jury. An awkward, crusty, hard-featured attorney entered the foppish barrister's chambers with a bundle of papers, and on seeing the young man in a superb and elaborate evening dress, is said to have inquired, "Can you say, sir, when Mr. Yates will return?" "Return, my good sir!" answered the barrister, with an air of surprise, "I am Mr. Yates, and it will give me the greatest pleasure to talk with you about those papers." Having taken a deliberate survey of the young Templar, and made a mental inventory of all the fantastic articles of his apparel, the honest attorney gave an omnious grunt, replaced the papers in one of the deep pockets of his long-skirted coat, twice nodded his head with contemptuous significance, and then, without another word walked out of the room. It was his first visit to those chambers, and his last. Joseph Yates lost his client, before he could even learn his name; but in no way influenced by the occurrence he maintained his reputation for faultless taste in dress, and when he had raised himself to the bench, he was among the judges of his day all that Revell Reynolds was among the London physicians of a later date.

Living in the midst of the fierce contentions which distracted Ireland in the days of our grandfathers, John Toler, first Earl of Norbury, would not have escaped odium and evil repute, had he been a merciful man and a scrupulous judge; but in consequence of failings and wicked propensities, which gave countenance to the slanders of his enemies and at the same time earned for him the distrust and aversion of his political coadjutors, he has found countless accusers and not a single vindicator. Resembling George Jeffreys in temper and mental capacity, he resembled him also in posthumous fame. A shrewd, selfish, overbearing man, possessing wit which was exercised with equal promptitude upon friends and

foes, he alternately roused the terror and the laughter of his audiences. At the bar and in the Irish House of Commons he was alike notorious as jester and bully; but he was a courageous bully, and to the last was always as ready to fight with bullets as with epigrams, and though his humor was especially suited to the taste and passions of the rabble, it sometimes convulsed with merriment those who were shocked by its coarseness and brutality. Having voted for the abolition of the Irish Parliament, the Right Honorable John Towler was prepared to justify his conduct with hair-triggers or sarcasms. To the men who questioned his patriotism he was wont to answer, "Name any hour before my court opens tomorrow," but to the patriotic Irish lady who loudly charged him in a crowded drawing-room with having sold his country, he replied, with an affectation of cordial assent, "Certainly, madam, I have sold my country. It was very lucky for me that I had a country to sell—I wish I had another." On the bench he spared neither counsel nor suitors, neither witnesses nor jurors. When Daniel O'Connell, while he was conducting a cause in the Irish Court of Common Pleas, observed, "Pardon me, my lord, I am afraid your lordship does not apprehend me;" the Chief Justice (alluding to a scandalous and false report that O'Connell had avoided a duel by surrendering himself to the police) retorted, "Pardon *me* also; no one is more easily apprehended than Mr. O'Connell"—(a pause—and then with emphatic slowness of utterance)—"whenever he wishes to be apprehended." It is *said* that when this same judge passed sentence of death on Robert Emmett, he paused when he came to the point where it is usual for a judge to add in conclusion, "And may the Lord have mercy on your soul!" and regarded the brave young man with searching eyes. For a minute there was an awful silence in the court: the bar and the

assembled crowd supposing that the Chief Justice had paused so that a few seconds of unbroken stillness might add to the solemnity of his last words. The disgust and indignation of the spectators were beyond the power of language, when they saw a smile of brutal sarcasm steal over the face of the Chief Justice as he rose from his seat of judgment without uttering another word.

While the state prosecutions were going forward, Lord Norbury appeared on the bench in a costume that accorded ill with the gravity of his office. The weather was intensely hot; and while he was at his morning toilet the Chief Justice selected from his wardrobe the dress which was most suited to the sultriness of the air. The garb thus selected for its coolness was a dress which his lordship had worn at a masquerade ball, and consisted of a green tabinet coat decorated with large mother-of-pearl buttons, a waistcoat of yellow relieved by black stripes, and buff breeches. When he first entered the court, and throughout all the earlier part of the proceedings against a party of rebels, his judicial robes altogether concealed this grotesque attire: but unfortunately towards the close of the sultry day's work, Lord Norbury—oppressed by the stifling atmosphere of the court, and forgetting all about the levity as well as the lightness of his inner raiment—threw back his judicial robe and displayed the dress which several persons then present had seen him wear at Lady Castlereagh's ball. Ere the spectators recovered from their first surprise, Lord Norbury, quite unconscious of his indecorum, had begun to pass sentence of death on a gang of prisoners, speaking to them in a solemn voice that contrasted painfully with the inappropriateness of his costume.

In the following bright and picturesque sentence, Dr. Dibdin gives a life-like portrait of Eskine, whose personal vanity was only equaled by the egotism which often gave

piquancy to his orations, and never lessened their effect; —"Cocked hats and ruffles, with satin small-clothes, and silk stockings, at this time constituted the usual evening dress. Erskine, though a good deal shorter than his brethren, somehow always seemed to take the lead both in pace and in discourse, and shouts of laughter would frequently follow his dicta. Among the surrounding promenaders, he and the one-armed Mingay seemed to be the main objects of attraction. Towards evening, it was the fashion for the leading counsel to promenade during the summer in the Temple Gardens, and I usually formed one in the thronging mall of loungers and spectators. I had analyzed Blackstone, and wished to publish it under a dedication to Mr. Erskine. Having requested the favor of an interview, he received me graciously at breakfast before nine, attired in the smart dress of the times, a dark green coat, scarlet waistcoat, and silk breeches. He left his coffee, stood the whole time looking at the chart I had had cut in copper, and appeared much gratified. On leaving him a chariot-and-four drew up to wheel him to some provincial town on a special retainer. He was then coining money as fast as his chariot wheels rolled along." Erskine's advocacy was marked by that attention to trifles which has often contributed to the success of distinguished artists. His special retainers frequently took him to parts of the country where he was a stranger, and required him to make eloquent speeches in courts which his voice had never tested. It was his custom on reaching the town where he would have to plead on the following day, to visit the court overnight, and examine its arrangements, so that when the time for action arrived he might address the jury from the most favorable spot in the chamber. He was a theatrical speaker, and omitted no pains to secure theatrical effect. It was noticed that he never appeared within the bar until the *cause célèbre* had been

called; and a buzz of excitement and anxious expectation testified the eagerness of the assembled crowd to *see*, as well as to hear the celebrated advocate. Every article of his bar costume received his especial consideration; artifice could be discerned in the modulations of his voice, the expressions of his countenance, and the movements of his entire body; but the coldest observer did not detect the artifice until it had stirred his heart. Rumor unjustly asserted that he never uttered an impetuous peroration which he had not frequently rehearsed in private before a mirror. About the cut and curls of his wigs, their texture and color, he was very particular; and the hands which he extended in entreaty towards British juries were always cased in lemon-colored kid gloves.

Erskine was not more noticeable for the foppishness of his dress than was Lord Kenyon for a sordid attire. While he was a leading advocate within the bar, Lord Kenyon's ordinary costume would have disgraced a copying clerk; and during his later years it was a question among barristers whether his breeches were made of velvet or leather. The wits maintained that when he kissed hands upon his elevation to the Attorney's place, he went to court in a second-hand suit purchased from Lord Stormont's *valet*. In the letter attributed to him by a clever writer in the "Rolliad" he is made to say—"My income has been cruelly estimated at seven, or, as some will have it, eight thousand pounds per annum. I shall save myself the mortification of denying that I am rich, and refer you to the constant habits and whole tenor of my life. The proof to my friends is easy. My tailor's bill for the last fifteen years is a record of the most indisputable authority. Malicious souls may direct you, perhaps, to Lord Stormont's *valet de chambre*, and can vouch the anecdote that on the day when I kissed hands for my appointment to the office of Attorney-General, I

appeared in a laced waistcoat that once belonged to his master. I bought the waistcoat, but despise the insinuation; nor is this the only instance in which I am obliged to diminish my wants and apportion them to my very limited means. Lady K——— will be my witness that until my last appointment I was an utter stranger to the luxury of a pocket-handkerchief." The pocket-handkerchief which then came into his possession was supposed to have been found in the pocket of the second-hand waistcoat; and Jekyll always maintained that, as it was not considered in the purchase, it remained the valet's property, and did not pass into the lawyer's rightful possession. This was the only handkerchief which Lord Kenyon is said to have ever possessed, and Lord Ellenborough alluded to it when, in a conversation that turned upon the economy which the income-tax would necessitate in all ranks of life, he observed—"Lord Kenyon, who is not very nice, intends to meet the crisis by laying down his handkerchief."

Of his lordship's way of getting through seasons of catarrh without a handkerchief, there are several stories that would scarcely please the fastidious readers of these volumes.

Of his two wigs (one considerably less worn than the other), and of his two hats (the better of which would not have greatly disfigured an old clothesman, while the worse would have been of service to a professional scarecrow) Lord Kenyon took jealous care. The inferior wig was always worn with the better hat, and the more dilapidated hat with the superior wig; and it was noticed that when he appeared in court with the shabbier wig he never removed his *chapeau;* whereas, on the days when he sat in his more decent wig, he pushed his old cocked hat out of sight. In the privacy of his house and in his carriage, whenever he traveled beyond the

limits of town, he used to lay aside wig and hat, and cover his head with an old red night-cap. Concerning his great-coat, the original blackness of which had been tempered by long usage into a fuscuous green, capital tales were fabricated. The wits could not spare even his shoes. "Once," Dr. Dibdin gravely narrated, "in the case of an action brought for the non-fulfillment of a contract on a large scale for shoes, the question mainly was, whether or not they were well and soundly made and with the best materials. A number of witnesses were called, one of them, a first-rate character in the gentle craft, being closely questioned, returned contradictory answers, when the Chief Justice observed, pointing to his own shoes, which were regularly bestridden by the broad silver buckle of the day, 'Were the shoes anything like these?' 'No, my lord,' replied the evidence, 'they were a good deal better and more genteeler.'" Dr. Dibdin is at needless pains to assure his readers that the shoemaker's answer was followed by uproarious laughter.